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COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
SIERRA HEARING ROOM
SACRAMENTO, CALIFORNIA

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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Judy Friedman, Waste Prevention and Market Development

Susan Kumpulainen, Committee Secretary

Brian Larimore, Organic Materials Management Section

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Sue Markie

Carla Repucci

Virginia Rosales

Scott Walker, Permitting and Enforcement Division

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APPEARANCES CONTINUED

ALSO PRESENT

Susan Bassein, Greenaction for Health and Environmental Justice

Bernie Bingum, Chesapeake Environmental Group, Nursery Products

Evan Edgar, California Refuse Removal Council

Jennifer Edge, City of L.A. Department of Water and Power
Gebrehawiat

Randy Howard, City of L.A. Department of Water and Power

Gary Liss, Gary Liss and Associates

Patricia Mathews, Siskiyou County Planning Department

John Schneider, EDCO Recovery

Scott Smithline, Californians Against Waste

Michael Theroux, Theroux Environmental

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1 PROCEEDINGS

2 CHAIRPERSON PAPARIAN: Good afternoon, everybody.
3 Welcome. This is the Permitting and Enforcement Committee
4 of the Integrated Waste Management Board. I'm Mike
5 Paparian, Chair of the Committee.

6 We'll get started with a roll call. Secretary,
7 please call the roll.

8 SECRETARY KUMPULAINIEN: Jones?

9 COMMITTEE MEMBER JONES: Here.

10 SECRETARY KUMPULAINIEN: Peace?

11 COMMITTEE MEMBER PEACE: Here.

12 SECRETARY KUMPULAINIEN: Paparian?

13 CHAIRPERSON PAPARIAN: Here.

14 Just as a reminder, if you have a cell phone or a
15 pager, if you could just turn it to the vibrate mode or
16 turn it off so it doesn't interrupt us during this
17 hearing.

18 If you want to speak on any item, there are
19 speaker slips in the back of the room. Fill one out and
20 give it to Ms. Kumpulainien here in the front of the room.

21 Board members, do you have any ex partes?

22 Mr. Jones.

23 COMMITTEE MEMBER JONES: No. I'm current.

24 CHAIRPERSON PAPARIAN: Ms. Peace.

25 COMMITTEE MEMBER PEACE: I'm up to date.

1 CHAIRPERSON PAPARIAN: And I'm up to date.

2 I think we can just dive right into the Deputy
3 Director's report.

4 Mr. Levenson.

5 DEPUTY DIRECTOR LEVENSON: Thank you, Mr. Chair.
6 Good afternoon, Board members.

7 I have a rather lengthy report with a lot of
8 information on things that are happening around the state,
9 so if you'll bear with me while I put my glasses on.
10 Howard Levenson, Deputy Director, Permitting and
11 Enforcement.

12 First of all, I want to mention all of the
13 workshops and meetings that we've had last week and this
14 week. On the 30th, last week, we had a workshop on the
15 applicability of the new requirements within the C&D Phase
16 One regulations to other regulatory packages. We'll be
17 coming back most likely in January with an item that
18 summarizes the info from that workshop and the last
19 workshop and provides staff recommendations.

20 On the 27th, we had a field trip at the Yolo
21 County Central Landfill bioreactor project. We had a
22 tour, and lunch was provided by the county. And we had a
23 very good discussion. It got fairly healthy in the
24 afternoon between various panel members and the audience.
25 And Mr. Jones and Mr. Paparian were able to attend, and

1 Ms. Peace I know was planning to be able but was unable to
2 because of fire impacts on airline travel.

3 We had about 75 attendees, and I want to
4 especially thank Scott Walker and Rameen Yazdani of the
5 county for all the work they did to put that together. It
6 was quite an undertaking, I think very well appreciated by
7 everybody.

8 We had a workshop this morning on post-closure
9 maintenance and financial assurances. We have another one
10 on Friday on -- the informal workshop on long-term gas
11 violation regulations that you directed us to begin work
12 on. This will be an informal workshop Friday. And that's
13 the end of the workshops for this week.

14 But I am happy to announce that the 7th Annual
15 LEA Waste Board partnership conference will be held -- we
16 finally have an official date -- on March 10th through
17 12th at the Holiday Inn here in downtown Sacramento. And
18 there will be a lot more information coming out on that.
19 I will just for -- to let you know, we're thinking about
20 some of the messages that the Board has put forth
21 recently. We will put forward the zero waste logo. We
22 don't have a lot of paper. We've been trying to minimize
23 paper at that conference for a long time. We will include
24 it. We're working with the contractor and the hotel to
25 minimize waste generation. And lastly, we will be tying

1 in some field trips over the Recycled Content Trade Show
2 for the LEAs. So I think it will be a good event.

3 I'd like to give you an update on aggregate
4 recycling, aka, La Montana. As you know, this has been a
5 major enforcement problem since the mid '90s. And it's
6 got approximately 200,000 tons of Type A inerts on the
7 site that were generated from damage to the 405 freeway
8 during the North Ridge quake. The operator abandoned the
9 site, and the property owner is now attempting cleanup in
10 response to a court order, but the court order for
11 compliance for complete removal has passed.

12 Scott Walker visited the site on the 17th of
13 October with the LEA and reports that there's significant
14 new activity and movement of material off site. There's a
15 renewed sense of optimism that this site will be cleaned
16 up in the future. They have orders for almost half of the
17 processed material in place, and that material is
18 anticipated to be removed within the next couple weeks.
19 This was from Scott's report on the 17th.

20 There's still a large amount of material needing
21 markets. There's about 20,000 cubic yards of aggregate
22 and another 30,000 cubic yards of uncrushed material. And
23 Scott is working with L.A. County San Districts to see if
24 they can use some of that material at Puente Hills and
25 other landfills. And we're also working with the Waste

1 Prevention and Market Development Division, through
2 CalMax, and the zone administrators to see if we can
3 locate some other markets for that. As Chair
4 Moulton-Patterson directed, I think it was last month, we
5 were supposed to provide an update to the Board in
6 January. And hopefully at that time we'll be able to say
7 that the site is fully cleaned up. So that's good news on
8 that front.

9 In December, you, the P&E Committee, requested
10 that we evaluate the Merced County LEA. We have done so
11 and concluded that evaluation in September. I can provide
12 you some more details in writing. But I wanted to let you
13 know that we did find the LEA to be inconsistent in some
14 areas, specifically in failing or causing to be prepared
15 permits and permit revisions, failing to take appropriate
16 enforcement actions, and failing to comply or take some
17 actions that are inconsistent with regulations. However,
18 the Merced LEA has no current permits or enforcement
19 actions to bring forward. So there's no outstanding
20 individual compliance tasks to focus on.

21 As a result, we met with them in early September.
22 They submitted an evaluation work plan in late September,
23 and that plan was approved by staff on October 1st with
24 some of the following corrective measures already having
25 taken place. The LEA has replaced the lead LEA staff

1 person effective immediately. They are submitting a
2 revised enforcement program plan to us in November that
3 will include a lot more details. They are also submitting
4 in November a training program for new staff and the
5 supervisor. The director will review each facility
6 inspection report for the next year so he makes sure
7 they're submitted on time and are accurate. And the new
8 staff person and the supervisor will jointly inspect all
9 facilities within the next six months. I can provide you
10 more info, but we have been working with them to try to
11 remedy some of the past problems to make sure they don't
12 happen in the future.

13 The last thing that I'd like to tell you about
14 today is what's happening with the Southern California
15 fires. And we're getting information as I speak, so I've
16 kind of got a couple pieces of paper to shuffle here.
17 Obviously, this tragedy has affected thousands of people,
18 and I think all of our prayers and thoughts go out to
19 those folks down there.

20 We've been participating in a CalEPA response
21 under the osmosis of OES. On Thursday afternoon Bernie
22 Vlach and I participated in a conference call to
23 coordinate the state response to local questions. That
24 call included CalEPA, OES, all the BDOs, some COPAs, and
25 some LEAs. So for the biggest issues raised by locals

1 that would affect us are the management and disposal of
2 mixed debris -- that is solid waste that may have some
3 hazardous materials in it -- and whether that can be sent
4 to Class 3 landfills; the management and disposal of
5 clearly identifiable household hazardous waste; and then
6 the availability of FEMA funding for cleanup and
7 collection. There were a number of other issues that
8 included dead animal disposal, how to avoid contractor
9 fraud by cleanup companies, the processes for waivers of
10 permit terms and conditions and others.

11 We issued an all LEA letter on Friday that
12 reiterates the process for emergency waivers and included
13 information on disaster management plans. Also we
14 included a request from DPLA to have LEAs remind operators
15 to track the jurisdiction of origin of incoming fire
16 debris so no local jurisdictions are unduly penalized for
17 having improperly counted debris from their areas.

18 On Friday we were requested to provide an ongoing
19 presence at the disaster field office in Pasadena
20 beginning today. And I wanted to acknowledge Bernie Vlach
21 volunteered to go down. He's there this morning. Bill
22 Marciniak, who, I believe, lives in northern San Diego but
23 is in our Southern Cal office is also at the field office
24 in Pasadena and we will be having an ongoing presence
25 there for at least the next couple of weeks. I also

1 wanted to acknowledge Mitch Delmage who put in a stint at
2 the State Operations Center at Mather and has been
3 coordinating a lot of this internally.

4 We do have a web page. I think it is live or
5 about to go live. That's been a coordinated effort of
6 DPLA, P&E, and Public Affairs and we'll continue to add to
7 that.

8 Waste Prevention and Market Development is
9 providing information to OES to get to local assistance
10 centers on how to rebuild green. There's a lot of
11 information going on out there.

12 I raised the issue of mixed debris. And whether
13 the disposal of mixed debris in Class 3 landfills is
14 acceptable is up to the regional water boards and Toxics,
15 DTSC. DTSC did meet Friday morning and issued a
16 determination that general mixed fire debris can go into
17 lined Class 3 landfills. So we're getting that
18 information out to LEAs and Public Works folks. Folks do
19 need to identify and segregate very obvious hazardous
20 waste of materials. But otherwise, it's okay to go into
21 lined Class 3 landfills.

22 Now, we've been in contact with LEAs to ascertain
23 whether any landfills and transfer stations have been
24 directly hit by the fires and to make sure that the
25 emergency waiver process is being implemented. And Bob

1 Holmes has been collating this from our staff, and we know
2 of four facilities that have had some damage. Sycamore
3 Landfill in the city of San Diego, wild fire burned brush
4 and burned through a gas header line. Looked fairly
5 minor. West Miramar, wild fire burned brush on some of
6 the closed inactive portions, a little bit of damage to
7 the gas collection system. A lot of these things are not
8 fully ascertained yet. There'll be people doing damage
9 reports. Simi Valley Landfill and Recycling Center in
10 Ventura County was the hardest hit that we know of.
11 There's an estimated \$500,000 in damage to drainage
12 systems, other infrastructure, perhaps gas and water
13 wells. In another facility in Ventura, the Peach Hills
14 Organic Recycling Facility, the fire burned through there.
15 They lost a skip loader, and the compost piles are
16 currently burning. So at least four facilities that we
17 know of. There may be others as well.

18 Now speaking just in summary, the last thing I
19 want to mention is regarding the waiver process. As you
20 know, an operator can request an emergency waiver of
21 permit terms and conditions. And once the LEA issues a
22 waiver, our executive director can condition, limit,
23 suspend, or terminate it if necessary, but otherwise the
24 Executive Director will report on the issuance of those
25 waivers at the next scheduled Board meeting.

1 And we'll prepare that information for you, Mark.

2 But as of now -- and this changed half an hour
3 ago -- but we are aware of 16 waivers having been granted
4 by LEAs; six for landfills and ten for transfer stations,
5 with one pending for one more landfill. And we have this
6 information available to you, if you would like it in more
7 detail.

8 With that, I'll end my report and be happy to try
9 to answer any questions that I can.

10 CHAIRPERSON PAPARIAN: Questions, members?

11 Mr. Jones.

12 COMMITTEE MEMBER JONES: Thank you, Mr. Paparian.

13 I know Bernie and Marciniak are down south. Is
14 there a single contact person if somebody was to call this
15 Board to ask information? Do you have somebody --

16 DEPUTY DIRECTOR LEVENSON: It could be me or
17 Mitch.

18 COMMITTEE MEMBER JONES: Okay. All right.

19 DEPUTY DIRECTOR LEVENSON: Mitch is really
20 handling more of the HHW, and he's been the more general
21 contact with CalePA. He's shipping stuff to us. But if
22 it's P&E related, you can certainly direct it to me.

23 CHAIRPERSON PAPARIAN: The waivers that you're
24 saying, tonnage, hours, that kind of stuff?

25 DEPUTY DIRECTOR LEVENSON: I'm guessing -- I know

1 for Prima Deshecha -- if I'm pronouncing it right -- the
2 waiver is the tonnage limit and increase the operating
3 hours by one hour. It seems like it's all tonnage and
4 hours. EDCO has an increase in traffic as part of their
5 request. It looks like that's the general -- traffic,
6 hours, and tonnage. At this point, that's what we know
7 of.

8 CHAIRPERSON PAPARIAN: Okay. Do you have
9 anything Ms. Peace?

10 I did have -- as we go into the regular agenda, I
11 did just have a request from somebody who wanted to speak
12 on Item 8, the conversion technology item, is in traffic
13 on the way here, and so requested that if we could hold on
14 that for another 20 minutes or so. So if that's all
15 right, we'll take -- if we can just move on to the next
16 ones and then come back to that. I'm not sure how long
17 the other ones will take. We'll come back to that in
18 probably about 20 minutes or half an hour.

19 DEPUTY DIRECTOR LEVENSON: I know of one that may
20 take a while. Okay. If that's the case, then Bridget,
21 are you ready to jump in? You're next on the line. We'll
22 go the Agenda Item 9, that's the Board agenda. That's the
23 public hearing and consideration of adoption of the
24 proposed landfill closure loan program regulations.

25 CHAIRPERSON PAPARIAN: Before you jump into that,

1 I have a speaker slip on Item 7. And just to be very
2 clear on that -- Mr. Edgar, I'm looking for you. Where
3 are you? He may not even be in the room right now.

4 Just to be clear on Item 7, that's a full Board
5 item only. That's one of the series of reports on
6 landfills. So we won't be hearing that here today. That
7 will be at the full Board meeting. I'm sorry. Go ahead.

8 MS. BROWN: Good afternoon Chairman Paparian and
9 Committee members. I'm Bridget Brown with the Facilities
10 Operations Branch.

11 This is a public hearing and request for
12 consideration of adoption of the proposed landfill closure
13 loan program regulations. In 2001, California State
14 Auditor's report recommended that the Board seek
15 legislation that would allow it to offer loans or grants
16 to landfill operators in need of financial assistance to
17 close landfills.

18 On September 15th 2002, the Governor approved AB
19 467, establishing the landfill closure loan program. It's
20 purpose is to provide loans to help operators of unlined
21 older technology landfills close early to avoid or
22 mitigate potential environmental problems caused by
23 continued operation.

24 Public Resources Code Section 48204 requires the
25 Board to adopt regulations to implement the loan program.

1 Loans are zero interest and are limited to \$500,000 per
2 closure project. All loans are to be repaid within
3 ten years. A total amount of funds available for the
4 program will be determined annually. No funds have been
5 designated for this fiscal year. Priority will be given
6 to small rural landfills.

7 Staff utilized a focus group and held a public
8 workshop to review the proposed regulations. We received
9 no comments during the 45-day formal comment period.
10 Board staff determined that the proposed regulations are
11 exempt from the California Environmental Quality Act and
12 request direction to complete the rule making process with
13 the Office of Administrative Law.

14 This concludes my presentation.

15 CHAIRPERSON PAPARIAN: Thank you.

16 Any questions, Members?

17 Ms. Peace.

18 COMMITTEE MEMBER PEACE: Yes. I guess I -- if
19 they're already using a trust fund as a financial
20 assurance mechanism to close the landfill, why do they
21 need a loan?

22 MS. BROWN: If they're already using a trust
23 fund?

24 COMMITTEE MEMBER PEACE: It says here to be
25 eligible, they have to be using a trust fund or enterprise

1 fund as a financial assurance mechanism to fund landfill
2 closure, and such mechanism shall be in compliance with
3 the current required level of funding to meet all other
4 requirements provided.

5 I thought permitted landfills also already had to
6 have some sort of financial mechanism in place for
7 closure. So what do they need this loan program for?

8 MS. BROWN: Let me get some assistance.

9 MS. MARKIE: Hi. Sue Markie.

10 Basically this is for early closures. They don't
11 have enough money in their fund. So they would apply for
12 this loan to get additional money so they could close.
13 They have the trust fund. That's a prerequisite, but
14 there's not enough money because they thought perhaps
15 they'd be open longer so they'd have more time to put
16 money in the fund. So they may apply for a loan from us
17 to augment that amount of money.

18 COMMITTEE MEMBER PEACE: They won't have enough
19 money for the post-closure maintenance?

20 MS. MARKIE: Well, this is pretty much just for
21 more the closure of it. The post-closure maintenance,
22 that is a different scenario. And I don't know if Garth
23 is here for the post-closure funds, but for the closure?

24 COMMITTEE MEMBER PEACE: This is only for the
25 closure, not for the post-closure maintenance?

1 MS. MARKIE: Correct.

2 COMMITTEE MEMBER PEACE: Do you have any idea how
3 many people would be applying -- how many rural landfills
4 would be applying?

5 MS. MARKIE: When we did our survey early on, I
6 think we had 12 to 16 potential interested parties.

7 COMMITTEE MEMBER PEACE: Do you have any idea --
8 I guess the maximum amount is 500,000?

9 MS. MARKIE: Yes.

10 COMMITTEE MEMBER PEACE: Do you have any idea
11 about the average cost to close these rural landfills? Is
12 it about 500,000?

13 MS. MARKIE: No. It can typically be a huge
14 range. Scott had a figure on how much per acre, and I
15 can't remember what it was. But closure could be all over
16 the place. It depends on where it is.

17 Can you remember, Scott? You had something per
18 acre on, like, potential closure.

19 MR. WALKER: Most depends upon the final cover --

20 CHAIRPERSON PAPARIAN: You better come to the
21 mic.

22 DEPUTY DIRECTOR LEVENSON: While Scott is coming
23 up, I'll indicate one of the intents of the regulation was
24 to avoid trickling landfills in the small rural areas so
25 that we made sure they were closed properly, they had

1 sufficient funding so they could be closed properly
2 instead of just extending out indefinitely.

3 COMMITTEE MEMBER PEACE: 500,000 would be a
4 sufficient amount to close.

5 DEPUTY DIRECTOR LEVENSON: I'm going to let Scott
6 speak to that.

7 MR. WALKER: Scott Walker, Permitting and
8 Enforcement Division.

9 The typical -- the average costs of closure
10 depend upon the final cover system. But if you take a
11 fairly straightforward earthen type compacted clay system,
12 which most rurals would likely be able to utilize, you're
13 talking about approximately 50,000 -- between 50 and
14 \$100,000 per foot per an acre of the landfill. If you
15 have a typical ten-acre landfill, then that's on the order
16 of \$500,000 for a ten-acre -- between 500,000 and \$1
17 million. And many of the rural landfills are even smaller
18 than that. They're a few acres.

19 COMMITTEE MEMBER PEACE: Okay. So no money has
20 been put into this program. I guess that will be decided
21 at budget time. So other Board programs would be
22 affected, we'd have to cut something somewhere else to
23 fund this?

24 DEPUTY DIRECTOR LEVENSON: Those decisions would
25 have to be made as part of the next budget cycle.

1 COMMITTEE MEMBER PEACE: Okay.

2 CHAIRPERSON PAPARIAN: Okay. Any other questions
3 on this item?

4 Is there a motion, Mr. Jones?

5 COMMITTEE MEMBER JONES: Thank you, Mr. Chair.

6 I'll move adoption of Resolution 2003-40, public
7 hearing and consideration of adoption of proposed landfill
8 closure loan program regulations.

9 COMMITTEE MEMBER PEACE: I think I'd like to see
10 this one go to the full Board.

11 CHAIRPERSON PAPARIAN: Okay. I'm going to second
12 it.

13 And then -- I'm sorry. Ms. Peace, you'd like it
14 to go to the full Board for discussion?

15 COMMITTEE MEMBER PEACE: Yeah. Not be put on
16 consent.

17 CHAIRPERSON PAPARIAN: We do have the choice.
18 If -- I'm not anticipating the vote, whether it be one way
19 or another -- if we were to vote 3-0, we can still keep it
20 off of the consent. That doesn't mandate that we put it
21 on consent. So however the vote comes out, Ms. Peace
22 would like it to go to the full Board, so it will.

23 I think with that, we'll call the roll.

24 SECRETARY KUMPULAINIEN: Jones?

25 COMMITTEE MEMBER JONES: Aye.

1 SECRETARY KUMPULAINIEN: Peace?

2 COMMITTEE MEMBER PEACE: Aye.

3 SECRETARY KUMPULAINIEN: Paparian?

4 CHAIRPERSON PAPARIAN: Aye.

5 So again, even though a 3-0 vote, keep it off of
6 consent.

7 DEPUTY DIRECTOR LEVENSON: Can I ask if there's
8 any additional information that the Committee would like
9 prior to the Board meeting or as part of the presentation
10 at the Board meeting on that item?

11 COMMITTEE MEMBER PEACE: No.

12 CHAIRPERSON PAPARIAN: No. If anything --
13 Mr. Jones.

14 COMMITTEE MEMBER JONES: I think I'd like to see
15 a list. I think this is an outcropping of what had been
16 happening statewide where small rural jurisdictions were
17 forced to keep rural unlined landfills open throughout
18 most of Northern California because they could not afford
19 closure. So by keeping it open and taking up to a yard of
20 garbage twice a year, they were allowed to keep that
21 landfill as an active landfill, therefore putting off any
22 requirement to put cover on. And the problem in rural
23 landfill, especially in Northern California, is if you
24 don't have a good intermediate cover, then the rainfall is
25 going to leach through that material and start polluting.

1 So as a result of that concern, we started a
2 process three years ago -- I think it was three years
3 ago -- where we identified that problem and tried to
4 figure out what was a reasonable expectation since local
5 government has the ability to do a pledge of revenue for
6 their closure activities. They were cut short, some of
7 them. Some of them just didn't have enough funding.

8 These regulations are a direct result of that
9 activity. So I think that I would like to see all of the
10 Board members and their offices get a date calendar of,
11 you know, when the issue came up, the fact that the Board
12 voted to try to mitigate problems with these landfills by
13 coming up with this program so that some of the
14 cash-strapped jurisdictions could, in fact, have some
15 availability to get money because a lot of them were
16 forced to export their waste to other places.

17 So if you could come up with a chronology of how
18 the Board arrived at this point -- and these regulations
19 actually went through two iterations because prior to the
20 regulations being in this state, we wanted to make sure
21 that it wasn't a windfall. There was an awful lot of work
22 done to get it so you'd have a formula to follow. So I
23 think that would be valuable for me so I can recall some
24 of those things as well as the other members.

25 CHAIRPERSON PAPARIAN: I think that was good

1 practice for the discussion at the Board meeting, but I
2 just want one caution. Staff I know is stretched pretty
3 thin right now trying to divert some folks to assist with
4 the obvious issues in Southern California. So I wouldn't
5 want this to take a whole lot of time.

6 I think that the argument you just made,
7 Mr. Jones, I think Ms. Peace, you know, heard that
8 argument. And I certainly was part of a number of those
9 discussions that you've referenced over the past few
10 years, and I'm familiar with it. So I don't, myself, feel
11 a need for a whole lot of background, especially if it's
12 going to take up staff time putting that together over the
13 next couple weeks. So maybe if you could do it in kind of
14 a quick summary fashion, maybe work with Mr. Jones in
15 terms of what it is he's looking for.

16 COMMITTEE MEMBER JONES: I'm just looking to
17 educate the advisors and the analysts so --

18 DEPUTY DIRECTOR LEVENSON: We'll be able to put
19 together a chronology with no problem.

20 CHAIRPERSON PAPARIAN: Provide that to Mr. Dunn
21 if that's what is being looked for. Thank you.

22 COMMITTEE MEMBER PEACE: Excuse me. Does this
23 address things -- say it's going to cost them \$300,000 to
24 do an early closure. Is this addressing that we give them
25 the whole 100 percent to do that or 50 percent to do that

1 so that some of their money is going into it? Is that
2 addressed?

3 DEPUTY DIRECTOR LEVENSON: Is this a matching
4 loan? I believe it's a full loan.

5 MS. MARKIE: Can you repeat the question?

6 COMMITTEE MEMBER PEACE: If it's going to cost
7 them \$300,000 to close, is this loan to give them the full
8 amount, or do we expect the landfill owner/operator to put
9 some in fund towards that closure?

10 MS. MARKIE: They would definitely be putting in
11 some funds towards the closure. Say they have \$250,000
12 and they need 300,000, so they could get 50,000 or they
13 can get up to 500,000 --

14 COMMITTEE MEMBER PEACE: Okay. So they'll be
15 putting in some money themselves?

16 MS. MARKIE: What we'll do is we'll be looking at
17 what they have in their financial assurance accounts with
18 our financial assurances section and seeing if they're
19 eligible, how much they have. We don't want to give them
20 money if they're not ready to close.

21 COMMITTEE MEMBER PEACE: Okay. Thank you.

22 DEPUTY DIRECTOR LEVENSON: But I think there is a
23 distinction between the RMDZ loans where we only provide a
24 certain percentage of the loan and they have to secure
25 moneys from other sources, and this loan, the loan moneys

1 would be fully from our fund. There would be other moneys
2 that the rural entity is putting forth to deal with the
3 closure activities. We'll have a chronology in short
4 order for you.

5 Should we go on to Item 10, or do you want to go
6 back to --

7 CHAIRPERSON PAPARIAN: No. Go on to that item.

8 DEPUTY DIRECTOR LEVENSON: Item 10 is
9 consideration of the grant awards for the farm and ranch
10 solid waste cleanup and abatement grant program, FY
11 2003/04. Carla Repucci will be presenting that. But
12 before she does, I do want to just indicate that we're
13 very pleased to be bringing this item before you. We've
14 had an undersubscription in the past to this program, and
15 this is a significant achievement to get this many grant
16 applications for this amount of money. And I think it's a
17 credit to staff for the work they've done on outreach and
18 talking to the various applicants for this program.

19 (Thereupon an overhead presentation was
20 presented as follows.)

21 MS. REPUCCI: Good afternoon, Mr. Chairman and
22 Committee members. My name is Carla Repucci, and I will
23 present Committee Agenda Item E for the consideration of
24 seven applications for farm and ranch solid waste cleanup
25 and abatement grants.

1 There is \$929,000 available for fiscal year
2 2003/2004. The amount requested in these seven
3 applications is \$747,963 and represent the first award of
4 this fiscal year. Approval of these applications as
5 recommended would leave \$181,037 in the fund. The
6 applications have been reviewed for eligibility, scored,
7 and are being recommended for approval today.

8 --o0o--

9 MS. REPUCCI: The purpose of the farm and ranch
10 grant program is to cleanup illegal disposal sites on farm
11 and ranch property where the owner has stipulated he or
12 she did not authorize the deposition of the waste. A
13 property owner eligible for cleanup through this program
14 is not required to pay back the funds.

15 --o0o--

16 MS. REPUCCI: To be eligible for cleanup through
17 this program, a site must be an illegal disposal site; be
18 on farm or ranch property; have waste that was deposited
19 by a person who cannot be identified, located, or pay for
20 timely cleanup; and the site must require remedial action
21 to protect the public health, safety, and/or the
22 environment.

23 --o0o--

24 MS. REPUCCI: In December 2002, the Board
25 approved revised scoring criteria for the program. In

1 addition to the Board-approved general scoring criteria,
2 three program criteria were added to give preference to
3 those applications that encompassed the priorities
4 identified in the enabling statute and regulations.

5 Additional points are awarded to those applicants
6 that have an innovative and cost-effective program in
7 place to discourage illegal disposal; request cleanup of
8 property that is currently used for farm or ranch
9 activities; and if they're requesting grant funds for the
10 cleanup of an illegal disposal site on private property.

11 --o0o--

12 MS. REPUCCI: AB 1328 became effective
13 January 1st of this year allowing Resource Conservation
14 Districts and Native American tribes to apply for farm and
15 ranch grants. Outreach was done to these groups in the
16 form of newsletters, website postings, and workshop
17 presentations. The Board's Office of Public Affairs has
18 been instrumental in assisting staff in getting the word
19 out to these groups. The results of this outreach is that
20 five of the seven applications received for this quarter
21 are from these newly eligible groups.

22 --o0o--

23 MS. REPUCCI: This chart shows a quick look at
24 what was requested by the seven applicants and what is
25 being recommended for approval by the Board. The budgets

1 were reduced in five of the applications due to ineligible
2 costs, math errors, and because one site was disallowed.
3 The site was disallowed because it does not fit the
4 definition of farm and ranch property as defined in
5 regulation.

6 Staff worked with all the applicants to revise
7 the budgets, and all applicants are aware of the final
8 recommended grant amounts. In addition, there are two
9 sites within the Siskiyou County application that have
10 interesting circumstances staff have not seen before. The
11 sited are not precluded from grant funding by either the
12 statute or the regulations. However, because they are
13 somewhat different, staff wanted to explain the specific
14 situations. The first involves a site inherited by a
15 minor child. The second is a site occupied by a disabled
16 tenant who has not been taking care of her garbage but
17 piling it on the property.

18 Both of these sites are presently eligible for
19 grant funding, and staff feel it is appropriate to
20 recommend approval. However, since the applications seem
21 to be coming in on a more steady basis for this program,
22 staff is considering options for tightening up the
23 eligibility requirements through the application and the
24 affidavit.

25 --o0o--

1 MS. REPUCCI: Agenda Item E is for the
2 consideration of seven grant applications for farm and
3 ranch solid waste cleanup and abatement grants. All seven
4 applications meet the eligibility requirements set forth
5 by the statute. Therefore, staff recommends the Board
6 adopt Resolution 2003-494 authorizing the award of up to
7 \$747,963 for the grant applications from the counties of
8 Siskiyou and Imperial, the Resource Conservation Districts
9 of Tulare, Excelsior, Kings, upper San Luis Rey, and
10 Solano and the Hoopa Valley Environmental Protection
11 Agency and directing staff to develop and execute grant
12 agreements.

13 I would be happy to answer any questions.

14 CHAIRPERSON PAPARIAN: Any questions, Members?

15 We do have one public speaker. Okay. Patricia
16 Mathews from the Siskiyou County Planning Department.

17 MS. MATHEWS: Thank you, Committee members. I
18 just wanted to --

19 CHAIRPERSON PAPARIAN: Could you identify
20 yourself again for the record.

21 MS. MATHEWS: My name is Patricia Mathews. I'm a
22 code enforcement officer in the Planning Department for
23 Siskiyou County.

24 I just wanted to mention that code enforcement,
25 particularly from a land use point of view, is a very new

1 concept to Siskiyou County. It's been just two years that
2 they've had a specific code enforcement position. So this
3 whole concept is being, I'm happy to say, slowly embraced
4 by everyone.

5 The little green light is on. Is that better?

6 I'm here to answer any questions just to
7 supplement the presentation that Carla has made and also
8 to compliment this staff, particularly Carla, for the
9 responsiveness and the absolutely forthcoming excellent
10 job to assist.

11 CHAIRPERSON PAPARIAN: I have do have a question.
12 In reading through the agenda item, it seemed like several
13 of these properties were bought site unseen and the
14 problems were created by prior owners. And then
15 somehow -- at least a couple of these properties came into
16 county hands presumably through a tax lean or something,
17 and then the county sold it at an on-line auction. The
18 new owner bought it, didn't know what the property looked
19 like. So obviously they want it cleaned up and so forth.

20 Are you doing anything, or are we encouraging you
21 to do anything to ensure there's fuller disclosure in the
22 future if the county is involved in the sale of properties
23 like this?

24 MS. MATHEWS: When properties are for sale, there
25 is always -- there's always the encouragement from the tax

1 folks for any potential buyer to check out what they're
2 buying, the caveat emptor.

3 Also you mentioned that the previous owner
4 created problems. That's not necessarily so. Sometimes
5 you'll see this and people -- this meaning the tires and
6 the pile of wood and the abandoned vehicle and so on. And
7 then other people come along, and pretty soon you have a
8 problem that's way out of control that may or may not have
9 been from a previous owner, per se. It's just this is out
10 in the country, dirt roads, no pavement anywhere. So your
11 question as to whether there's going to be fuller
12 disclosure --

13 CHAIRPERSON PAPARIAN: It seemed like there was
14 several of the properties where the county was the one
15 selling it on line.

16 MS. MATHEWS: Correct.

17 CHAIRPERSON PAPARIAN: And yet we're coming in --
18 and I don't have a problem with us coming in and paying
19 for the cleanup of the properties, but it seems like if
20 we're going to step in to cleanup properties in the
21 future, perhaps the county -- and I don't mean to single
22 out your county. This may be happening elsewhere too.
23 But it seems like the local governments ought to disclose
24 that so that is factored into the people who are
25 purchasing the property so we're not then stuck with

1 spending state funds to cleanup something that the
2 owner -- the new owner didn't know about and could have
3 known about if --

4 MS. MATHEWS: Understood. Two things here. One
5 is that I'll be happy to pass that on that maybe there can
6 be a couple on line photos. I'll be happy to pass that
7 suggestion on. The second is that the citizens who live
8 around these places are becoming more aware, much more
9 interested in cleaning them up. And should this grant
10 application be successful, it would be part of a larger
11 cleanup of much smaller scale. But still, you know,
12 people coming from out of everywhere to keep these places
13 cleaned up. So you have a really increased level of
14 vigilance from this point on also.

15 CHAIRPERSON PAPARIAN: Does staff have any
16 response to the general issue of -- have you seen this
17 elsewhere, other local governments involved in --

18 MR. WALKER: Scott Walker, Permitting and
19 Enforcement Division.

20 The tax lien auction, we haven't really seen that
21 before. But in review of these applications, they meet
22 all the requirements. With the affidavit and all that
23 were signed by the property owners, it does meet the
24 requirements.

25 I think one thing that we would be looking at, as

1 we would all aspects of the program, is that we would
2 periodically come back with the scoring process and
3 application, bring it before you to reevaluate and where
4 we look at tightening up in certain areas, whether it's
5 scoring or whether it's in the affidavit. And so we will
6 continue to look at this and bring it back to you and see
7 if there's areas that we might want to, you know, tighten
8 up or what have you with the scoring process. It's a
9 continual reevaluation and adjustment.

10 In this particular case on the tax lien, right
11 now we don't really see any specific problems, although we
12 certainly would be looking at reevaluating it the next
13 time we bring it back to you for the scoring process.
14 There's other areas that we're already looking at with
15 regard to the tenant situation and also, you know, where
16 you have an inheritance type situation. We're looking at
17 the affidavit to make some more immediate changes to
18 tighten it up a little better or also make it consistent
19 with our local government waste tire grant program. So
20 that's kind of what we're looking at right now doing. And
21 we could see the need to continue to reevaluate.

22 These grants, we're fine with these grants. We
23 think they're appropriate. And then the next time we come
24 back with scoring criteria, we will bring these issues for
25 and you see where we need to adjust.

1 CHAIRPERSON PAPARIAN: Other questions?

2 Thank you very much. Thank you for coming all
3 the way here.

4 MS. MATHEWS: Sure.

5 CHAIRPERSON PAPARIAN: I had one other question
6 on a different county. The Kings Resource Conservation
7 District, one of the items -- I think it was site two --
8 discussed how the owner has been unsuccessful in deterring
9 dumping. Will we -- or I guess more appropriately the
10 LEA -- be doing anything to assure that there's some
11 deterrence for future dumping at the same site? I think
12 what we've seen on a number of sites is that once
13 identified as a place for dumping, it just seems to
14 continue even after you clean it up.

15 MS. REPUCCHI: We do ask in the application that
16 they address in the application how they will deter future
17 dumping. And it could be handled through fencing,
18 signage, increased surveillance. I don't recall off the
19 top of my head what this applicant was proposing. But we
20 do ask that they address that in the application.

21 CHAIRPERSON PAPARIAN: Okay. Anything else,
22 members?

23 Is there a motion?

24 Ms. Peace.

25 COMMITTEE MEMBER PEACE: Yes. I would like to

1 move Resolution 2003-494 consideration of the grant awards
2 for the farm and ranch solid waste cleanup and abatement
3 program, fiscal year 2003/2004.

4 COMMITTEE MEMBER JONES: I'll second.

5 CHAIRPERSON PAPARIAN: There's a motion and a
6 second.

7 Secretary, call the roll.

8 SECRETARY KUMPULAINIEN: Jones?

9 COMMITTEE MEMBER JONES: Aye.

10 SECRETARY KUMPULAINIEN: Peace?

11 COMMITTEE MEMBER PEACE: Aye.

12 SECRETARY KUMPULAINIEN: Paparian?

13 CHAIRPERSON PAPARIAN: Aye.

14 So that one, I believe, goes to the Budget
15 Committee. Our recommendation would be fiscal consensus.

16 I think we may be ready to take up the item that
17 we postponed, the conversion technology item. I think
18 Mr. Liss arrived. There he is. Okay. Good.

19 DEPUTY DIRECTOR LEVENSON: This is Committee item
20 C, Board Agenda Item 8. And it's a long title.
21 Discussion and request for rule making direction to
22 formally notice proposed amendments to the
23 transfer/processing operations and facilities regulatory
24 requirements regulations to address conversion technology
25 operations and facilities.

1 Thank Elliot for that title, I believe.

2 (Laughter)

3 DEPUTY DIRECTOR LEVENSON: And Brian Larimore is
4 going to make this presentation.

5 MR. LARIMORE: Good afternoon, Mr. Chairman,
6 Committee members. I'm Brian Larimore, and I work in the
7 Waste Prevention and Market Development Division's Organic
8 Materials Management Section.

9 According to the Board's 1999 waste
10 characterization study, if paper and plastics are
11 included, approximately 80 percent of the material
12 landfilled annually is organic. Conversion technology
13 facilities could potentially convert a large fraction of
14 this material into a wide variety of marketable products,
15 including fuels, solvents, lubricants, paints, and
16 plastics.

17 The Board directed staff at its February 19th,
18 2002, meeting to initiate a rule making to revise the
19 transfer station processing operations and facilities
20 regulatory requirements to specify that conversion
21 technologies that handle solid waste residuals as
22 feedstock, whether or not the technologies are
23 specifically included in the statutory definition of
24 transfer station, are subject to these regulations.

25 In this rule making, several steps have been

1 taken to ensure participation by interested parties. An
2 initial workshop was held in January 2002 to seek
3 stakeholder guidance on regulation of conversion
4 technology sites. A focus group of representatives from
5 industry, CIWMB, environmental organizations, and LEAs was
6 formed in early 2003 and teleconferences were held.
7 Regulations were drafted and circulated at a workshop held
8 August 1st, 2003. Approximately 40 stakeholders attended
9 the workshop. Board staff has received written comments
10 from stakeholders and communicated by phone and e-mail.

11 The issues brought forward by stakeholders during
12 the informal process include the preference by some to be
13 considered a manufacturer rather than a recycling center.
14 This would exclude conversion technology sites from these
15 regulations, even when the three part test was not passed.
16 A request that permit tonnages be higher for conversion
17 technology sites than transfer processing sites.

18 There are several issue outside the scope of the
19 regulations, including whether diversion credits should be
20 allowed for material diverted to a conversion technology
21 site and whether CT sites should be required to remove
22 recyclables prior to Conversion. The proposed language
23 requires to the maximum extent possible all recyclable
24 materials and marketable green waste compostable materials
25 have been removed prior to the conversion process. And

1 the owner or operator of the facility certifies those
2 materials will be recycled or composted.

3 This language was taken from PRC 40117, the most
4 recent statute addressing the removal of recyclables from
5 a conversion technology facility. Some stakeholders
6 believe the proposed language would be cost-prohibitive,
7 requiring conversion technology facilities to remove more
8 recyclables from the feedstock prior to the conversion
9 process than currently required in their jurisdiction.
10 Others think language is not strong enough.

11 One other thing I need to point out on this
12 issue, the language on front end recycling will need to be
13 removed from the definition of conversion technology to a
14 separate section to close a loophole that placing it in
15 this definition inadvertently creates.

16 Board direction and stakeholder input has been
17 considered in drafting these regulations. The formal rule
18 making will allow for further stakeholder input, but some
19 in the audience today may wish to expand on these and
20 other issues at the conclusion of this presentation.

21 The current draft of the regulations is
22 Attachment 1 of this item. To summarize the proposed
23 regulations, conversion technology operations and
24 facilities will be regulated under the transfer processing
25 operations and facilities regulatory requirements as

1 directed by the Board at its February 2002 meeting.
2 Conversion technology sites will be slotted into the same
3 tiers and be subject to the same minimum standards as
4 transfer processing sites. Also the proposed regulations
5 would define conversion technology to include catalytic
6 cracking, distillation, gasification, hydrolysis, and
7 pyrolysis. It would not include incineration, biomass
8 conversion or composting, which would include anaerobic
9 digestion. It would require the removal of recyclable
10 materials, marketable green waste compostable materials
11 prior to conversion. The Board at its April 16th, 2002,
12 meeting approved a policy recommendation requiring the
13 removal of recyclable materials.

14 It would also exclude sites that pass the
15 three-part test. It would exclude very small conversion
16 technology activities conducted in a closed environment
17 and not require a permit for a conversion technology
18 research operation but an EA notification for a maximum of
19 15 tons of material. And it would change the name of the
20 full permit to conversion technology facility permit from
21 facility subject to a full permit.

22 The Board may decide to direct staff to notice
23 the proposed amended regulations for a 45-day public
24 review and comment period or direct staff to revise the
25 proposed regulations and notice the proposed regulations

1 for a 45-day public review and comment period or direct
2 staff to gather additional stakeholder input regarding the
3 proposed regulations. Staff recommends the Board direct
4 staff to notice the proposed amended regulations for a
5 45-day public review and comment period.

6 I'd be happy to answer any questions at this
7 time, including anything on the recent letters that have
8 arrived.

9 CHAIRPERSON PAPARIAN: Any questions before
10 we hear public comment? We have several speaker slips.

11 Do you want to provide any general response to
12 the letters before we hear comments?

13 MR. LARIMORE: I could, sure, if you'd like me to
14 do that.

15 CHAIRPERSON PAPARIAN: Why don't you go ahead.

16 MR. LARIMORE: Let me get those out. You want me
17 to name them by the person who sent them?

18 CHAIRPERSON PAPARIAN: Sure.

19 MR. LARIMORE: The one by Mike Mohajer stated
20 that, "Why should the proposal as written be more
21 restrictive of those requirements specified in 40117 as
22 far as the language for removing recycled?"

23 It's exactly the exact language out of 40117. So
24 it wouldn't be any more so.

25 He also said, "Why does the proposed

1 definition" -- well, let me see. Where is it? He says
2 that, "gasification process facility is eligible for
3 diversion credit. Why should the proposal as written be
4 more restrictive than those requirements?"

5 Well actually, gasification is not eligible for
6 diversion credit. I mean, we received a letter from
7 Matthew's office stating that to be the case. So I think
8 that's just -- he misinterpreted that statute.

9 And the part B is pretty much a similar thing as
10 far as the diversion credit. I think that's -- they tell
11 me I'm going into too much detail here.

12 The letter from Mel Finstein, he wanted to add
13 some language as far as what conversion technology
14 includes, and he wanted to include non-biological
15 gasification. I think that's because the firm that he
16 represents, they use anaerobic digestion to produce
17 methane. I think he wanted his outfit to be excluded.
18 Basically we have left anaerobic digestion under the
19 composting regulations. We thought it would be a little
20 difficult to try to break it out for the LEAs into whether
21 they were primarily producing methane or primarily
22 producing compost. So all composting has been left in the
23 composting regulations.

24 There's a lot of issues in this one of Gary
25 Liss'. And I'll try to address them.

1 CHAIRPERSON PAPARIAN: I think Gary Liss is
2 here --

3 MR. LISS: With up-dated letter.

4 CHAIRPERSON PAPARIAN: -- to speak for himself.
5 Maybe you want to hold that until after you hear his
6 comments and respond to everything that he's got to bring
7 up.

8 So I think we're ready to jump into the public
9 comments. I have Evan Edgar, followed by Susan Bassein,
10 followed by Gary Liss.

11 MR. EDGAR: Good afternoon, Committee members.
12 My name is Evan Edgar, Edgar Associates, on behalf --

13 CHAIRPERSON PAPARIAN: Is that on? We've been
14 having problems with that microphone all day. Is that on?
15 Make sure it's pointed right towards you.

16 MR. EDGAR: Evan Edgar, Edgar Associates. I'm an
17 engineer for California Refuse Removal Council.

18 We support noticing the regulations today. A lot
19 of work has been put into them. We support the regulatory
20 concept in place following the TPR regulations, the
21 transfer processing regulations. It makes sense. We
22 support the MRF first policy, whereby MSW needs to go
23 through an MRF before it goes to a conversion technology.
24 We're not really competing against all the different types
25 of composting facilities out there. I think we're

1 competing against the 25 million tons of organics that are
2 going to the landfills today.

3 Conversion technologies need to be commercialized
4 and we need regulatory framework as certainty. Conversion
5 technology is new. A lot of people don't know what they
6 are. With these regulatory frameworks in place sooner
7 than later, the industry can move forward in order to
8 permit them and commercialize them. We don't need to
9 delay any further. We believe that conversion
10 technologies are a framework for energy product fuels.

11 And we have a great hope within the new
12 administration where we want to get renewable energies up
13 to 20 percent by 2010 and 33 percent by 2020. The new
14 administration has an aggressive program in order to
15 promote renewable energies and the way that conversion
16 technology is going to be permitted. And the way they're
17 looking today, they would be eligible for renewable
18 resources and linkages to the California Energy
19 Commission. They would be qualified for renewable energy
20 as they should be.

21 What we're not talking about today -- and it's
22 premature -- is AB 939 diversion credits. That's a heated
23 debate. We get nowhere with that today because that's
24 over at the Legislature. There's nothing here today to
25 talk about AB 939, but we're here to talk about renewal

1 energy and how the conversion technology sets a framework
2 for tomorrow.

3 Out of conversion technology, some of the things
4 we can do is add organics. We can gasify and make an
5 ethanol fuel to replace MTBE. It's visionary, but it's
6 hopeful and it's near. It can be commercialized soon out
7 of plastics 3 through 7, catalytic cracking. We can make
8 low sulfur diesel, clean fuels. Out of fats, greases, and
9 renderings, we are already making biodiesel fuels. These
10 are happening today. Clean fuels for our fleets to have
11 clean air. We go in front of the California Air Resource
12 Control Board in order to phase out our heavy diesel. We
13 need low sulfur diesel. We need alternative fuels. We
14 need to get rid of MTBE.

15 Looking at your multi-media CalEPA solutions,
16 looking at the CARB, looking at the California Energy
17 Commission and conversion technologies, this is a great
18 regulatory framework to launch into the new eco
19 industrial complex of clean fuels, clean air using waste
20 byproducts.

21 We support these regulations and urge you to move
22 forward with them as part of this regulatory package.
23 Thank you.

24 CHAIRPERSON PAPARIAN: Thank you, Mr. Edgar.

25 Ms. -- I'm sorry I couldn't understand your name.

1 Come up to the microphone. Do you want Gary Liss to go
2 first?

3 MS. BASSEIN: Yes, please.

4 CHAIRPERSON PAPARIAN: She's deferring to you.
5 Gary Liss.

6 MR. LISS: Mr. Paparian, members of the
7 Committee, first of all, thank you for holding this over.
8 I apologize for running late. We had some last minute
9 changes to the letter that we're presenting to you today.
10 And this is different than what was sent to you last week
11 as a draft.

12 First of all, the major message is please don't
13 put the cart before the horse. Don't put the regs before
14 the studies. You have a \$400,000 comprehensive study that
15 hopefully would be a pioneering work for the industry
16 highlighting what are the impacts of the different types
17 of technologies that are being proposed in a way that can
18 enhance the dialogue and discussion of what makes sense to
19 go forward within California, to set forward for
20 circulation regulations that are supposed to protect us
21 from the impacts of technologies before having the impacts
22 defined in the studies just doesn't make sense.

23 We're particularly concerned on Page 8-3 of the
24 staff report where staff said they're planning to get
25 these regs out. And then maybe in a couple of years,

1 we'll get around to adding additional standards to address
2 other things after facilities are built. That is the
3 wrong time. Once the horse is out of the stable is the
4 wrong time to start thinking about what are the problems
5 with these technologies. You've recognized as the
6 Legislature did, there are impacts of different
7 technologies. Not all of these conversion technologies
8 are the same. The technologies that are good and support
9 a carbohydrate economy are ones we would support. But we
10 do not support high temperature technologies that by their
11 design volatilize heavy metals, create toxic gasses out of
12 those, and can create dioxins and furans, some of the most
13 God awful chemicals that have been created on earth.

14 We also are concerned that the emphasis on these
15 black box solutions will divert the focus and priority of
16 the Board and other agencies throughout the state away
17 from product stewardship issues, product bans, material
18 bans. Black box, end-of-the-pipe solution is not the way
19 we're going to get to zero waste in this state. We're
20 going to get there by holding producers responsible for
21 their products and packaging.

22 As far as the couple of key points on PVC.
23 Conversion technologies should not be allowed to consume
24 PVC. We keep hearing of this technology that's going to
25 use number 3 through 7 plastics. Number 3 is PVC. That

1 is the source of dioxins and furans. Don't let PCV go
2 into any conversion technology system, particularly if
3 it's operating above life temperatures. And residue from
4 MRFs to be used in conversion technologies must certify
5 they do not contain any PVC. Instead, the state should
6 take steps to replace PVC with safer alternatives in all
7 applications.

8 The permits once issued by the Waste Board should
9 require that these black box solutions are also not a way
10 that producers get out from under their responsibility to
11 more appropriately redesign their product to minimize
12 waste and to reuse, recycle, and compost their products
13 and packaging. So we ask that permits have stipulations
14 that document that manufacturers of products going into
15 the technologies already pay for effective collection and
16 processing infrastructure in the service area of the
17 project that keep the majority of those materials from
18 being landfilled.

19 In a special issue on research operations, rather
20 than taking the approach that staff took, we recommend
21 that research operations attain a registration style
22 permit, an option that was not discussed in the
23 regulations but should have been. Operators should be
24 required to comply with protections for the same issues
25 addressed by all the conversion technologies in permits in

1 a registration tier system.

2 Finally, as far as program and long-term impacts,
3 we believe staff has dramatically underestimated the
4 concern that exists in the environmental community from
5 the launching of these new technologies. Major grassroots
6 efforts are under way to oppose specific projects
7 throughout the state. And we ask the Waste Board to
8 provide clear guidance now of what is acceptable and
9 unacceptable technologies or we're going to have the types
10 of huge public outcry that characterized this industry in
11 the early 1980s in California when incineration projects
12 were proposed throughout the state. Most of these were
13 defeated, and appropriately so.

14 The Board could recognize and it could avoid much
15 of those problems by omitting high temperature
16 technologies from consideration and proceeding cautiously
17 and only after completions of the studies that you've
18 undertaken and that scientific analyses are generally
19 accepted by both industry, environmental groups as being
20 accurate.

21 Thank you for the opportunity to present here
22 today. I'd be happy to answer any questions or respond to
23 staff's response to these comments that they're prepared
24 to address.

25 CHAIRPERSON PAPARIAN: Any questions?

1 Ms. Peace.

2 COMMITTEE MEMBER PEACE: Yes. When you mention
3 the dioxins, et cetera, that would be emitted from the
4 conversion technologies, aren't these regulated by the Air
5 Board? Would the Air Board have their regulations?

6 MR. LARIMORE: Yes. They are regulated by the
7 Air Board and the air districts. We're looking at that as
8 outside of our authority, per AB 1220.

9 COMMITTEE MEMBER PEACE: Thank you.

10 CHAIRPERSON PAPARIAN: Mr. Jones.

11 COMMITTEE MEMBER JONES: Gary, I don't remember
12 if it was you or not. I remember when we were talking
13 about the studies, there was opposition to the studies
14 because it was theoretical. Now there seems to be a
15 reliance on the studies before we do regulations that are
16 put in place to at least manage when one of these comes
17 down the road. And I'm having a hard time reconciling
18 that. I don't understand how we could be opposed to the
19 theory when we did a study because it was only
20 theoretical. And now we're saying don't do these because
21 we ought to wait for those same studies. It was a
22 question to you.

23 MR. LISS: If I may. I was one of the people
24 that were speaking about using only commercial scale data
25 for the studies. We weren't opposed to the studies. We

1 were just saying use real data, not theoretical data, and
2 don't fill in the gaps in data by extrapolating
3 information.

4 And what we also suggested in the August 1 focus
5 group meetings was that the Waste Board would do everyone
6 a service by helping define what's outside of your
7 regulation because that, in California, should be where
8 the technologies get developed. If we don't have the
9 technologies in the state, let's develop them on clearly
10 identifiable feedstocks so we can track the emissions --
11 the air and ash emissions from materials that we know and
12 see how they work in this state with those type of
13 feedstocks as industrial projects.

14 That was the whole focus of the late '70s, early
15 '80s biomass to energy projects. These projects focused
16 on specific types of biomass, wood chips, almond shells,
17 walnut shells, and fire. And these combustion systems are
18 really funny animals. When you put stuff into it that you
19 know what the composition is, you can more or less project
20 what's going to come out the stack. But when you put in
21 mixed materials -- our whole point is, don't put in mixed
22 stuff unless you're damn sure of what's going to come out
23 the stack. If you're putting in stuff that has PCV and
24 other materials mixed in with it, there's a good
25 likelihood that you're going to have the types of problems

1 that other communities have and that bankrupted other
2 communities.

3 COMMITTEE MEMBER JONES: I'm a little familiar
4 with that because we actually did some real money into
5 those.

6 MR. LISS: Right.

7 COMMITTEE MEMBER JONES: The full commercial
8 operations that you're talking about of existing
9 conversion technologies -- we're not talking mass burn
10 incineration. That is not what these are about. It's
11 very clear in our regs that's not what this is about.
12 Where do they exist for us to go get that data? You've
13 identified that's what we should do as a course of action.
14 So where are they?

15 MR. LISS: We understand your consultants are
16 some of the best in the industry and know where those are
17 and have been charged. And they indicated in the focus
18 groups that they knew where those were and they were going
19 to report back to us. I haven't been paid \$400,000 to
20 come up with those answers. I don't have that answer off
21 the top of my head. And in our comments, what we said is
22 if it is not commercial scale, don't accept it until it
23 proves itself in the commercial scale sector with
24 industrial feedstock.

25 COMMITTEE MEMBER JONES: Okay. That's what I'm

1 getting at, Gary. You're saying there aren't any around.
2 All these regs do is put a place holder to make sure that
3 when one comes in, they can live within a regulatory
4 scheme on the issues that deal with us. And those issues
5 that we're concerned about are the storage of the
6 feedstock municipal solid waste and what the categories
7 are. Very similar to any material recovery facility or
8 transfer station in the state of California that could,
9 already being permitted, attach something to the end of
10 it -- whether they're making plastic lumber or doing
11 whatever they're doing -- as an ancillary part of an
12 operation. We're putting into place where that doesn't
13 exist at least the chance to make sure that health and
14 safety is protected. So, you know, I mean, this isn't
15 saying go build them and bring them.

16 MR. LISS: But staff did recognize in the report
17 that you're saying regulate them like transfer and
18 processing facilities. Your staff said you could do that
19 today. You have the authority -- or you may have the
20 authority to do that today. So what is the urgency? What
21 projects are being proposed that this -- another month or
22 two delay in integrating these studies' results into the
23 regulations -- what's the problem? Why not use the
24 transfer processing regulations currently for any projects
25 that are imminent and urgent?

1 COMMITTEE MEMBER JONES: It's --

2 MS. FRIEDMAN: First of all, I just wanted to --
3 Judy Friedman, Waste Prevention and Market Development
4 Division.

5 I wanted to say that we're starting the process.
6 This would give us the authority to start the clock.
7 There will be ample time for comments to be raised and
8 vetted and analyzed and presented back to the Board with
9 detailed recommendations associated with them. So we're
10 starting the clock.

11 We all have experience of regulations taking
12 quite a bit of time. We want to make sure that we start
13 the process so we can establish the clear authority that
14 Mr. Jones was speaking about, that it's clear to all, that
15 isn't a gray area, that there's certainty as to the
16 Board's purview and authority with regard to solid waste
17 management, handling, and storage aspects of any
18 conversion technology process that ultimately may get
19 permitted. So I just wanted to establish that. I don't
20 know if Elliot Block wants to add anything to that or any
21 others. But that's something that is clear, any delay is
22 another month delay in starting that process.

23 STAFF COUNSEL BLOCK: Okay. I guess I'll add
24 something.

25 CHAIRPERSON PAPARIAN: Identify yourself, Elliot.

1 STAFF COUNSEL BLOCK: Elliot Block from the Legal
2 Office.

3 I'm not sure I'm going to say anything different
4 than I think has been said. But what these regulations do
5 is they provide some clarity which we have heard from
6 numerous folks is not there. While we're essentially
7 regulating the handling of solid waste, the things that
8 are within our jurisdiction consistently with the way
9 we're doing that with other facilities that handle solid
10 waste, there are a lot of questions out there.

11 And a number of the Board members have heard
12 these at various workshops from folks that, "I do X.
13 Where do I fit?" If you look at the current regulations
14 the way they are now, there is no mention. And you'll see
15 in these regulations, frankly, half the regulatory package
16 is definitions. It's saying who's what and where they
17 fit. There is certainly a significant amount of clarity
18 this brings without changing the standards.

19 I do also want to add there's a reference in
20 Mr. Liss' letter to the staff report, reference to
21 anticipating additional standards. That's really
22 essentially a catch-all. All we were saying with that was
23 if it turns out as we see some of these facilities,
24 there's additional things that we do need to take care of.
25 We have the ability to deal with that. But frankly, these

1 regulations and the Board's jurisdiction is focused on the
2 handling of solid waste before it goes into, as Gary
3 mentioned, the black box. Emissions, air effects, all
4 those sort of things are things that are covered by other
5 agencies' permits.

6 And these regulations won't stop the fact that
7 any facility that wants to come forward is going to have
8 to get air permits and all those sort of things. They're
9 going to have to go through whatever local land use
10 approvals they're going to have to do. And to the extent
11 they're in our full permit if something comes in that
12 process, whether it's the CEQA process or otherwise, the
13 permits are going to have specific terms and conditions,
14 if those are appropriate.

15 For instance, there are three, as you know,
16 transformation facilities in California right now that we
17 permit. Those are permitted through our transfer
18 processing regulations. They have specific terms and
19 conditions that came out as individual facilities move
20 forward. These regulations don't permit any facilities.
21 They just set up a framework so those can then move
22 forward in the process.

23 CHAIRPERSON PAPARIAN: I think you might have
24 just scared Mr. Liss more than he was a minute ago. Let
25 me try to grapple with this just for a second.

1 The question of what happens right now if a
2 facility proposal comes forward. If we had a facility
3 proposed somewhere in the state, I think what I hear the
4 staff saying is they believe they have the authority to
5 regulate that facility under our existing scheme, but
6 they're not quite 100 percent certain, that someone could
7 potentially challenge that. And we would do our best to
8 defend that. We think we'd probably win, but we might
9 not.

10 STAFF COUNSEL BLOCK: That's true.

11 CHAIRPERSON PAPARIAN: There's that on one end.

12 STAFF COUNSEL BLOCK: In addition to that, we're
13 also hearing from folks who potentially want to bring
14 these facilities forward. They can't get past go. I
15 don't know if there's any --

16 CHAIRPERSON PAPARIAN: Because they don't know
17 where they fit?

18 STAFF COUNSEL BLOCK: When they go to get
19 financing or when they're talking to whoever they're
20 talking to to bring their facility forward, they don't fit
21 anywhere. They can't point to a piece of paper and say,
22 "This is what kinds of permits I need to get." If you
23 look at our transfer processing regulatory requirements
24 regulations now, you don't see any of these facilities
25 listed anywhere. And what we're hearing from folks -- and

1 we've been hearing this for the last two or three years --
2 that we have trouble getting past go for that reason.
3 Because you have trouble getting financing when nobody
4 knows what you might or might not have to be required to
5 do down the road.

6 CHAIRPERSON PAPARIAN: So then another issue that
7 Mr. Liss raised is that we're going to be finding out more
8 about potential impacts of these facilities. Sometime in
9 the near future we're going to start getting some of these
10 studies back. Mr. Liss' point, as I understand it, is
11 that based on those studies, we may want to regulate these
12 facilities differently. We may want new state minimum
13 standards. We might want -- we can't anticipate what
14 those might be because we haven't seen the results of the
15 studies. But there might be something in those studies
16 that informs us in a way that would lead us to believe
17 that we should regulate these facilities in a slightly
18 different way.

19 And that's why I think he's concerned when he
20 reads several years in the agenda item before we address
21 those kinds of concerns, or perhaps even more indefinitely
22 as I just heard. And I think that's part of the concern
23 that he's raising, is that there may be items identified
24 in this study that we're paying for, yet we don't have
25 clarity those are going to be addressed very quickly or

1 addressed at the same time we're doing this regulatory
2 process.

3 MS. FRIEDMAN: Perhaps I can take a stab at that.
4 There's nothing in the study that really will change, from
5 our understanding, the solid waste management handling,
6 you know, storage aspects of this. The studies are
7 looking at the technologies. Those issues that you're
8 concerned about, Mr. Liss is concerned about, would be
9 purview of another regulatory agency, whether it's the
10 local agency, whether it's the State Water Board, the Air
11 Board, the local air districts. Those kinds of issues,
12 the emissions and all that sort of stuff, would not be
13 this Board's permitting authority. What we're trying to
14 do is establish the clear path that relates to our
15 authority. And so the results of the study would not
16 change that.

17 CHAIRPERSON PAPARIAN: I mean, for myself, I
18 mean, I'm not sure that's the case. I think we do in the
19 case of landfills put some restrictions on materials that
20 are regulated by other agencies going into landfills. I
21 think we put some restrictions on materials going into the
22 three solid waste incinerators in the state. So others
23 may regulate the output, but we have some say over the
24 input.

25 STAFF COUNSEL BLOCK: You know, I'm not

1 specifically familiar with all the terms and conditions of
2 those three permits. But certainly, as we do with
3 landfills, we prohibit them from accepting -- in the case
4 of the transformation facilities, burning hazardous waste.
5 You know, we do that here in these regulations. To the
6 extent I suppose that this study would find out that
7 certain types of materials can't go to certain types of
8 facilities, I suppose we can deal with those.

9 But primarily my understanding is the way those
10 facilities are dealt with, the concern is the emissions.
11 And they're handled essentially for the most part at the
12 back end in terms of how those are measured and
13 controlled. And these regulations wouldn't change the
14 fact that those kinds of controls would be put on
15 primarily through an air permit.

16 MR. LISS: Mr. Chair, but that's a great example.
17 The PVC is a great example of something that could be
18 regulated by the Waste Board as saying, "We don't want
19 these facilities to take PVC as an input." There may be
20 different definitions. The studies underway are looking
21 at what is the range of the technologies? There may be
22 very different types of technologies that are coming
23 forward through the studies that will affect the
24 definitions. And there may be different ways of
25 classifying things as some being more hazardous than

1 others in terms of what they will be generating and how
2 they will be handling materials.

3 So the suggestion that this \$400,000 study won't
4 have an impact on these regulations and there's no linkage
5 between the two seems like, one, a waste of money. That
6 you're spending all this money to figure out the impacts
7 and then it won't input on your regulatory authority. But
8 most importantly, there will be things that in the scoping
9 of that project we spent a whole lot of time for weeks
10 working through the methodology for that study to make
11 sure that all these issues of impacts that were in your
12 responsibility were considered.

13 And in the scope of work, there are all these
14 methodologies that you have outlined to address those
15 things in your authority and then at the end said -- and
16 there were other issues raised by the focus group that are
17 outside your authority. So you've already dealt with
18 that, but you've got pages and pages of scope in your
19 methodology for your studies saying these are things that
20 we need to look at to make sure we understand the impacts
21 for us, the Waste Board.

22 DEPUTY DIRECTOR LEVENSON: May I speak? Howard
23 Levenson, Permitting and Enforcement.

24 As Deputy for Permitting and Enforcement, I'm
25 concerned about having proposals come to us for the

1 handling of solid waste where we don't really know where
2 to place those in a regulatory framework. And I think
3 that there are really two different issues here. I think
4 it's a consistent message you're hearing from staff that
5 there is a concern about making sure that there is a
6 consistent framework for regulating facilities that handle
7 solid waste so we avoid storage problems, fire, vectors,
8 things like that. And then there is a subsequent or
9 corollary set of permitting and procedural and permitting
10 procedures and permits that are handled at the local level
11 and by the AQMDs and so on that address these issues.

12 And I think in terms of the life cycle
13 environmental impacts part of the study, if any of that
14 information showed that there were exceedances of current
15 ambient air standards or hazardous air standards, then it
16 would be incumbent on us to evaluate those in a couple of
17 ways. One is to get that information out to the AQMDs and
18 whatever the relevant regulatory authority is so they can
19 incorporate that into their regulation. But this's an if.
20 I haven't seen the result of the studies. I don't know
21 what we're going to say yet.

22 If there was something that indicated increased
23 dioxins and furans as a result of some of these
24 technologies, then I think at that point we should look at
25 whether we should put additional prohibitions on the

1 incoming feedstock. But I don't think that's something we
2 can't do fairly quickly and come back to you if those
3 results so indicate.

4 CHAIRPERSON PAPARIAN: I think that's part of the
5 heart of Mr. Liss' concern when he saw several years for
6 addressing something like that. And Mr. Block suggested
7 somewhat indefinitely.

8 I don't know that you really meant to say it in
9 that way.

10 But I think that what I'm hearing from Mr. Liss
11 is we may find out some of this information in the next
12 few months, yet he's hearing that we're not going to
13 really address it for several years. At the same time, we
14 put the regulatory scheme in place for siting these
15 facilities.

16 DEPUTY DIRECTOR LEVENSON: We probably should ask
17 Judy or Fernando what the timing of the studies is. But I
18 think that realistically if we get your approval today to
19 go out for a 45-day comment period, we still have to prep
20 the packages. This is going to be several months before
21 we even have the initial hearings. If we have -- if the
22 timing is such that the --

23 CHAIRPERSON PAPARIAN: Why don't we hear -- when
24 are we expecting these studies?

25 DEPUTY DIRECTOR LEVENSON: I would say we can

1 always then revise the regulations and go out for 15-day
2 comment. And we can put a hold on it in that time frame.

3 CHAIRPERSON PAPARIAN: Ms. Friedman, go ahead.

4 MS. FRIEDMAN: Thank you. Judy Friedman again.

5 The study draft information should be the
6 January/February time frame.

7 CHAIRPERSON PAPARIAN: Okay.

8 STAFF COUNSEL BLOCK: I'm now wondering what
9 words I said that made somebody think years because I
10 don't remember using that phrase. But just in terms of
11 regulatorily how these things work, if the Board Committee
12 directs us to go start the formal process now, we are
13 probably -- in looking at holidays and the like -- two,
14 three, four months before doing the actual formal notice.
15 There's a fiscal impact statement that has to be done.
16 There's a number of different -- initial statement of
17 reasoning and the like. We're not sure exactly how long
18 the fiscal impact statement will take to get signed off on
19 just because of the change in the administration.
20 Realistically, we're not noticing anyway before
21 January/February. That's the beginning of the 45-day
22 comment period.

23 So one of the things in bringing this forward now
24 does is gets the process started. It will not be done by
25 any stretch of the imagination before we have at least the

1 preliminary results of the study. And I apologize. I
2 wasn't aware the study was coming back quite that soon.
3 So the timing will work. Of course, it always comes back
4 to the Committee and then Board. So if there is
5 information that's coming out that is an indication that
6 we need to take a time out and stop and reevaluate because
7 there's information we didn't expect to see, you know, we
8 can certainly always deal with it at that point in time.

9 CHAIRPERSON PAPARIAN: Would we be precluded at
10 that point from considering -- let me put it another way.
11 There's certain language in this regulation right now,
12 certain definitions and so forth. If information came out
13 in a different area related to conversion technologies,
14 would we have a problem inserting that during a 15-day
15 comment period? Or would we have to start the clock
16 again?

17 STAFF COUNSEL BLOCK: It would depend on -- I'll
18 give you the lawyer answer. It will depend on exactly
19 what the information is. But the bottom line is if it's
20 the wish of the Committee to insert some additional
21 language, your worst case scenario in that example is
22 you'd have to do a 45-day comment instead of a 15-day
23 comment period.

24 CHAIRPERSON PAPARIAN: You don't have to start
25 the whole clock again?

1 STAFF COUNSEL BLOCK: Right. So you would have
2 the -- assuming it's within the Board's jurisdiction in
3 the first place and it's related to these regulations, you
4 could get it in. It's just a question of whether it's 15
5 or 45 days. And it would have to be very different from
6 most of what's in here to actually even take the 45-day
7 comment period. I mean, the 15-day comment period is
8 fairly loose if it's related to the same basic topic.

9 CHAIRPERSON PAPARIAN: I think Ms. Peace had
10 something.

11 COMMITTEE MEMBER PEACE: I was just going to say
12 if we go ahead and send these out for 45-day public
13 review, that's not going to keep us from incorporating
14 some of the things that might be in the study,
15 incorporating those into the regulations if we found it
16 necessary.

17 MS. FRIEDMAN: That's correct. If there was
18 something that actually related to the scope of these
19 regulations that came out of the study, we would be able
20 to incorporate that. It might result in a 15 day or, as
21 Mr. Block said, at the worst case another 45 day review if
22 necessary.

23 MR. LARIMORE: And actually, I plan on starting
24 the 45-day in March, by my schedule that I've got.

25 CHAIRPERSON PAPARIAN: Is there anything else for

1 Mr. Liss? I have a couple of other speakers. Okay.

2 Thank you, Mr. Liss.

3 Susan, if you could help me with your last name.

4 MS. BASSEIN: I'm Susan Bassein, and I'm
5 representing Greenaction for Health and Environmental
6 Justice. We're a grassroots direct action group which
7 helps communities mobilize opposition to incinerators and
8 incinerator-type technologies and other sources of
9 pollution. We helped the folks in East Oakland shut down
10 the IES incinerators. And in fact, we helped the folks in
11 West Oakland shut down the U.S. EPA -- not the CalEPA --
12 incinerator that they had claimed was emitting salt and
13 steam, but it turned out was emitting dioxin.

14 This is my first time in a meeting like this, so
15 if I stumble over myself, please excuse me.

16 I heard a number of things here that people said,
17 some of which filled me with joy, and others with fear.
18 The idea that these facilities can't get past go was the
19 one with joy because that means we won't have to work so
20 hard to shut them down when the pollution that they
21 produce is discovered.

22 The fear is the faith that I've heard in Air
23 Quality Management Districts. I've worked with the Bay
24 Area Air Quality Management District, and their record is
25 absolutely awful with regard to regulating air quality.

1 We have had to take over their meetings because they are
2 not running them properly. They will regularly permit
3 polluting sources. The most recent one I was involved
4 with was the Red Star East Factory in West Oakland where
5 the facility was failing its source tests. It was
6 generating unacceptable stink in the neighborhood, and the
7 Air Quality Management District was just blithely sailing
8 through renewing permits. So I don't have such faith in
9 the Air Quality Management Districts. Perhaps others are
10 better, but the Bay Area one is terrible.

11 So those were not part of my prepared remarks.

12 First of all, I don't think I can add anything
13 technical to what Mr. Liss said. I'm just going to give
14 the Greenaction perspective. We are concerned about
15 public health, and we always want the safest technology
16 used. And no level of dioxin or toxic metals is
17 acceptable. Pyrolysis or gasification are simply
18 incinerators in disguise. We want industries and
19 communities to move towards zero waste. We don't want new
20 technologies for processing waste that produce new toxics.

21 And what we're looking for is more reduction and
22 recycling. I want to give two examples of where we're
23 currently working in California. The first is in the city
24 of Alameda. And Alameda Power and Telecom is considering
25 a waste to energy gasification plant. They are saying to

1 the public that there will be no toxic emissions, zero.
2 However, the report by their consultants sites a company,
3 Bright Star Environmental, that uses this technology in
4 Australia. And I visited the Bright Star website, and lo
5 and behold they emit dioxin and mercury. Apparently to
6 Alameda and Telecom, this is not toxic emissions.

7 So another example of where we're working on this
8 is Chowchilla in the Central Valley. North American Power
9 Company is proposing to treat medical waste. And although
10 they intend to treat a broad range of waste by pyrolysis,
11 they claim there will be no toxic emissions. And we
12 believe that is scientifically and technically impossible.

13 Thank you.

14 CHAIRPERSON PAPARIAN: Okay. Thank you very
15 much.

16 Scott Smithline, followed by Michael Theroux.

17 MR. SMITHLINE: Chairman Paparian, Board members,
18 I'm Scott Smithline with Californians Against Waste.

19 Is this on?

20 CHAIRPERSON PAPARIAN: Yes.

21 MR. SMITHLINE: Californians Against Waste has a
22 keen interest in these emerging conversion technologies.
23 At this time we don't support or oppose this regulatory
24 package. Notwithstanding, we don't oppose moving this
25 package along. We're interested in, you know, being

1 involved with this package, but we think it's
2 premature to -- we don't think it's premature to start the
3 process, keeping in mind that there will be the results
4 from the LCA study, other studies that might come up, and
5 any new information that might come from the permitting
6 process from any facilities that become permitted or --
7 yeah -- in that permitting process. Essentially our
8 biggest concern as usual is that no diversion credit be
9 granted for these technologies until such time, if ever,
10 that there's some sort of clear direction from the
11 Legislature.

12 That's all. Thank you.

13 CHAIRPERSON PAPARIAN: Thank you. Michael
14 Theroux.

15 MR. THEROUX: Good afternoon, Board members,
16 staff. Michael Theroux, Theroux Environmental.

17 CHAIRPERSON PAPARIAN: If you would lift up that
18 microphone so it points a little more -- there you go.

19 MR. THEROUX: There we go. How's that working?

20 First, I'd like to applaud the efforts of the
21 staff in the development of this package of regulations
22 and the concurrent work to start the process of the
23 difficult and complex studies that are approaching these.

24 By way of a moment of introduction, I am, indeed,
25 involved in the furthering, if you would, of a high-end

1 waste conversion to energy process that does fit within
2 this very narrow window that the regulations have allowed.
3 Very closely defined technologic methodology this allows
4 us to consider, at least, permitting a certain kind of
5 waste to energy process that is certainly not
6 incineration. When these -- and I've been involved with
7 Mr. Levenson and staff for a number of these now in the
8 development of the understanding of these technologies.

9 When this became apparent that we could move
10 things forward, I had identified a series of technical
11 reports by an international company, Juniper, and brought
12 these to the attention of staff. And they have
13 incorporated a vast amount of best available technology
14 assessment into the beginnings of the program. I did this
15 in context of our own global assessment for technologies
16 that we would believe would be ultra clean for the
17 conversion of waste to energy. And although we do not
18 support any particular vendor -- we're not a vendor of
19 technologies -- we settled on one of the very high
20 temperature conversion, non-combustion thermal conversion
21 technologies. In this case, that technology of plasma
22 gasification developed by, in this case, Westinghouse and
23 furthered by the Hitachi Metals Corporation.

24 Board Member Jones, you asked if there's
25 something we can go to. Yes, there certainly is. Not in

1 the United States. As so often is the case, the better
2 U.S. technologies we first see implemented somewhere else
3 in the globe. Right now, Japan has multiple fully
4 commercial plasma gasification technologies on line. They
5 found themselves in a situation that we certainly can
6 understand with over 200 incinerators that they depended
7 upon for their waste management and their energy
8 generation. And the stringency of the air standards were
9 being violated daily.

10 In 1997, the Japanese government pushed Hitachi
11 towards Westinghouse Plasma Corporation to ask if, indeed,
12 the high-end technologies could both convert the waste to
13 a sin gas, and instead of flaring it off, to use that sin
14 gas without any emission to create a fuel for energy
15 generation in, and that started something called the
16 Hitachi plant, the first on line.

17 Japan feels that the implementation of this
18 particular kind of technology -- it isn't the only one
19 they're working with right now -- dropped their dioxin and
20 furan levels 100 times below what they had on the same
21 incineration, on the same feedstock. Extremely low.

22 The technology that we are attempting to bring
23 into California at this time is repowering an existing
24 incinerator. And we certainly have a number of them in
25 the state. Our biomass plants are permitted through the

1 Energy Commission, not the Waste Board, very clearly and
2 specifically so they don't use waste. Those few things we
3 might consider waste are controlled by the Ag Department
4 or some other area. The portions of C&D they can take are
5 extremely closely watched. And yet in order for those
6 incinerators to be cleaned up, they're going to probably
7 end up having to repower, just as the have Japanese done.
8 This is a sector that is critical to the industry itself.

9 We're not promoting incineration. We're
10 promoting the next step. It is not one specific
11 technology to do this, but a very narrowly defined type of
12 technology that there is data on, that there are
13 commercial facilities on. I'm working on a trade mission
14 right now with the Department of Commerce whereby we might
15 be able to pick up select regulators and legislatures,
16 perhaps associates within the environmental field as well
17 and carry them first to the Westinghouse facilities in
18 Pennsylvania and run the tests on the specific chosen
19 waste stream, take that hard core data, go to Japan, and
20 watch these things in operation. I know it is a big load
21 to take on to move to Japan to see these things work, but
22 that is where they happen to be fully scaled and
23 operational.

24 We have offered to the U.C. Riverside component
25 of the Waste Board's current technology assessment team

1 that our operations be simply completely transparent. And
2 we would offer the same to the Board, we have to the
3 staff, that as these developments move forward and as we
4 try to find our path through this process of permitting,
5 we are not looking for exemption. We are not looking for
6 anything other than full permitting, full CEQA assessment,
7 and compliance. And intending all the way through the
8 process to take the most stringent path of assessment of
9 actual waste to provide the data that's necessary. And in
10 so doing, to integrate that directly into the assessment
11 studies that are being pursued at this time.

12 So I would offer to Mr. Liss, to the Board, to
13 the staff, and anyone that's interested that we have an
14 open process. We are working with the Sierra Club
15 directly. We are working with any agency that would like
16 to look over our shoulder. We believe that we have a very
17 small opportunity, very one time opportunity to bring
18 ultra clean waste conversion into the state. And in so
19 doing, supplant much of what we have done in the past. I
20 am at your disposal.

21 CHAIRPERSON PAPARIAN: Thank you.

22 Any further questions, Members?

23 Ms. Peace.

24 COMMITTEE MEMBER PEACE: I have a question of
25 staff. A couple of months ago, didn't we give a loan to a

1 plastics conversion technology facility in Hanford?

2 MS. FRIEDMAN: Yes.

3 COMMITTEE MEMBER PEACE: And how is that facility
4 being regulated?

5 MR. BERTON: Fernando Berton for the Waste Board.

6 At this point that's an open question. The
7 plastic energy LLC facility would be taking 3 through 7
8 plastic. And they're of the opinion that they would pass
9 the three-part test that's within this regulatory package
10 and I believe, therefore, would be exempt from a solid
11 waste facility permit. So that doesn't mean to say they
12 wouldn't need their own local permits from Kings County or
13 wherever. But as far as the Waste Board's concerned --

14 MS. FRIEDMAN: They would have to have all the
15 local land use permits and all the environmental review
16 that goes with that, whatever air districts permits are
17 associated with that. And I don't know whether or not
18 that results in other state agency permits, whether it's
19 Water Board permit or an ARB permit. But certainly they'd
20 have to go through all the local land use permits.

21 COMMITTEE MEMBER PEACE: But because they passed
22 the three-part test, they don't have any permit that we
23 give them from the Waste Board?

24 MS. FRIEDMAN: If they pass the three-part test.
25 It's their opinion that they do and that still needs to be

1 determined, I believe.

2 COMMITTEE MEMBER PEACE: Can I ask another
3 question? On page 8-3 under "excluded activities" it
4 says, "conversion activities that use coal and petroleum
5 products would be excluded." Are plastics considered
6 petroleum products?

7 MR. BERTON: I don't know. It's a product from a
8 petroleum distillate, I suppose. But whether it's an
9 actual petroleum product --

10 COMMITTEE MEMBER PEACE: Does that make it then
11 confusing here that if we say they're excluded -- things
12 that use petroleum products are excluded -- because over
13 here it says that plastics are included.

14 MR. LARIMORE: Actually, let me jump on this one.
15 I changed the language in the regulations, which may
16 clarify it a little bit. It's changed to "an operation
17 that processes coal or petroleum waste through conversion
18 technologies excluded." So we're thinking mainly sites
19 that gasify those types of waste should not be regulated
20 by us. I don't know if that's clear.

21 COMMITTEE MEMBER PEACE: What shouldn't be
22 regulated? That still didn't make it clear to me.

23 MR. LARIMORE: They would not be regulated by us.
24 It wouldn't be plastics. We could change the language if
25 this is, you know, not clear to people. But now it says

1 "processes coal or petroleum waste." Slightly different
2 than the other language in the agenda item text.

3 COMMITTEE MEMBER PEACE: Plastics wouldn't be
4 considered petroleum waste?

5 MR. LARIMORE: Correct.

6 MS. FRIEDMAN: Correct.

7 COMMITTEE MEMBER PEACE: So it's petroleum waste.

8 Also the only other question I had was on number
9 7 -- again page 8-3 number 7, will they want to have a
10 conversion technology facility permit? I just wonder why
11 that's different from, like, the composting or the C&D.
12 Composting doesn't have a composting facility permit or a
13 C&D facility permit?

14 MR. LARIMORE: I think for composting didn't we
15 end up with that in there, Elliot?

16 STAFF COUNSEL BLOCK: Yeah. The composting
17 regulations have a similar provision where we basically
18 name it. It's compostable materials handling facility
19 permit.

20 And this is not so much a regulatory kind of a
21 provision as we have over the years with these kinds of
22 regulations had folks concerned that if the permit they
23 get is called a solid waste facilities permit, it gives
24 the impression that they're one type of facility versus
25 something else. So we have on a couple of rule making

1 passages gone ahead and called them something else.
2 Technically under the statute it is still a solid waste
3 facilities permit, but we've gone ahead and given it
4 another name to be responsive to that concern that's been
5 raised.

6 COMMITTEE MEMBER PEACE: Okay. Because if you
7 look on Agenda Item 14, it says, "consideration of a new
8 full solid waste facilities permit" and then "compostable
9 handling" in parentheses. So that is still called a "full
10 solid waste facilities permit compostable materials,"
11 where this is being called a "full solid waste facilities
12 permit conversion technology." This is totally different,
13 it seems to me.

14 DEPUTY DIRECTOR LEVENSON: Our standard practice
15 on the agenda item title is to say "full solid waste
16 facilities permit." This would still -- if a facility
17 came in under these regulations, we'd have to talk to
18 Elliot, but probably we'd probably say "full solid waste
19 facilities permit," (conversion technology).

20 COMMITTEE MEMBER PEACE: These would not be
21 handled any differently -- okay.

22 STAFF COUNSEL BLOCK: If you were to look at that
23 permit, it would say "compostable materials facilities
24 permit."

25 COMMITTEE MEMBER PEACE: Okay. Thank you.

1 CHAIRPERSON PAPARIAN: Okay. Members, we're a
2 bit overdue for our break. I'd like to try to work over
3 the break and try to see if I can come up with something
4 that would work on this in terms of moving it forward. So
5 if it's all right with you, I'd like to take our break and
6 come back and finish this item right after the break.

7 No problem with that. We'll take a little over a
8 ten-minute break. We'll come back right at 3:00. Thanks.

9 (Thereupon a recess was taken.)

10 CHAIRPERSON PAPARIAN: Members, any ex partes?

11 COMMITTEE MEMBER JONES: John Cupps and Larry
12 Sweetser on solid waste issues.

13 CHAIRPERSON PAPARIAN: And I spoke with Gary Liss
14 and Michael Theroux about this last agenda item. And just
15 a meet and greet conversation with Mark Aprea and with
16 Kathy Van Austin.

17 Ms. Peace.

18 COMMITTEE MEMBER PEACE: I spoke with Michael
19 Theroux from Theroux Environmental.

20 CHAIRPERSON PAPARIAN: We're finishing up that
21 last item. And Members, I talked to a couple of the
22 parties over the break as well as our staff, and here's
23 what I'd like to suggest as a possible way to move
24 forward. That we move forward with putting the item out
25 for the 45-day comment on the time line that staff

1 indicated. It's going to be a few months before they're
2 able to get it ready to go out. But at the same time,
3 that we direct staff to look at the results of the studies
4 as they come forward and make sure as appropriate they
5 look to possible changes to the regulation proposal based
6 on those studies, and at the same time they report back to
7 us on a very regular basis, both on the regulations
8 process and on those studies so if necessary we can give
9 direction. And also at the same time that in their
10 regular reporting back to us, alert us to any issues where
11 some direction or further direction might be necessary as
12 an example of something like that.

13 Mr. Liss brought up whether the feedstock should
14 be regulated to determine whether enough recycling was
15 done before it reached a facility or not. That would be
16 an example of something I imagine would be somewhat
17 controversial that maybe some further discussion and
18 direction might be necessary if we were to move forward on
19 something like that.

20 So, again, the basic proposal is to go out for
21 the 45 days, that the staff will look at the results of
22 the studies as they come forward, that if they believe
23 appropriate to move forward to adopt things into the
24 regulations, that they propose that, that staff also
25 regularly talk to the Committee as to further direction

1 that might be necessary as well as updates on the
2 regulations and updates on these reports.

3 MS. FRIEDMAN: Mr. Chair, may I just clarify one
4 thing? Regular updates is fine. We had a plan to
5 regularly update the Sustainability and Market Development
6 Committee on the study itself. Anything that relates to
7 certainly these regulations and any potential change that
8 might come as a result of those we could bring to the
9 Permitting and Enforcement Committee. I don't know if
10 that would meet with your needs, but that is something
11 that we had planned to do.

12 CHAIRPERSON PAPARIAN: Certainly in terms of
13 direction as it might relate to these regulations, that's
14 more in this Committee. Since I don't sit on that other
15 Committee and -- let me put it another way. Obviously
16 you're going to be updating that Committee on the status
17 of the studies. You probably also need to update this
18 Committee to the extent there are items that could be
19 affected by the regulations.

20 MS. FRIEDMAN: That's fine with staff.

21 CHAIRPERSON PAPARIAN: Members, are you
22 comfortable with that?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: I'm comfortable with it.
25 I do have one question. When we talk about Mr. Liss' idea

1 with the recycling rate, some of these technologies are
2 going to actually enhance recycling because they're going
3 to offer an alternative where one doesn't exist through
4 the normal marketplace. Is that -- you know, like when
5 you get a warehouse full of number 4, 5, 6, and 7 plastics
6 and no market to send it to, are you asking for an
7 analysis of how hard they try to find a marketplace or --

8 CHAIRPERSON PAPARIAN: I think you're jumping
9 ahead on some of the discussions that we'll probably be
10 having about this. But I wanted to use that as an example
11 of the sort of thing that we ought to discuss in order to
12 determine whether we want to give direction for it to be
13 included in the regulations in some way or not. In other
14 words, we're not predetermining here today that we are
15 going to include something like that in the regulations.
16 We're not predetermining that we're not going to include
17 something like that in the regulations. But I'm saying
18 that this is an example of the sort of issue that we
19 should have some further discussion on to determine
20 whether we need to give some direction to staff with
21 regards to inclusion in the regulations.

22 COMMITTEE MEMBER JONES: Okay. Maybe it could be
23 further clarified at some further point because we always
24 reference back to the original either scope of work or the
25 request of staff to do certain things. And I just want to

1 make sure I clearly understand what that expectation is so
2 I don't get into a conversation at some point that you
3 meant one thing and everybody else meant something else.

4 CHAIRPERSON PAPARIAN: Let me try another way.
5 We're telling staff to go ahead with the process that will
6 lead to the 45-day comment period. We're also telling
7 them that the language that we have before us in the draft
8 that was presented here today is not necessarily the
9 universe of issues that we want to have addressed in the
10 regulations. We might want other things addressed as a
11 result of the studies that are coming forward. There
12 might also be other issues outside the studies that we
13 want to include.

14 But we're going to need to have some debate about
15 those issues before direction is given. And as an example
16 of the sort issue -- it's the one that we just talked
17 about it. The idea that we might want to regulate the
18 feedstock in some way with regards to whether it was
19 adequately recycled before it got to the facility. I'm
20 not making a predetermination on that. I'm not suggesting
21 we have to include it in the regulations. But I'm saying
22 that's the sort of issue that this Committee will need to
23 take a look at with regards to whether to give staff some
24 direction to include in the regulation package. So the
25 regulation package as we have it before us today might

1 wind up as the universe of issues, but we're also saying
2 that there may be other issues out there that we want to
3 give staff direction on.

4 Mr. Theroux, you had --

5 MR. THEROUX: Clarification.

6 CHAIRPERSON PAPARIAN: Will you step to the
7 microphone?

8 MR. THEROUX: Michael Theroux, Theroux
9 Environmental.

10 Specifically to this last point, Senator Sher's
11 office passed and had signed SB 183. The Board is aware
12 of this. Staff is aware of this. It's come in late in
13 the package. But one of the things it did is split into
14 two pieces the manner in which the Board would approve
15 certain kinds of processes. One that, yes, it's
16 appropriate as a non-combustion thermal conversion
17 technology. And then two, that, indeed, the feedstock
18 itself had been appropriately monitored if there was a
19 separate finding from the Board required, at least for
20 those facilities that would go to the Energy Commission
21 within renewable portfolio standard mechanism.

22 And staff got this late. It's recently signed.
23 But yes, indeed, Senator Sher's office recognizes this as
24 well and made it clear that there's a separate Board
25 finding required for that particular issue.

1 CHAIRPERSON PAPARIAN: Okay. So that may be --
2 that certainly would be something we would want to look at
3 to determine if and how we would include that in this
4 regulatory package or whether to include it in a different
5 regulatory package. And I'm sure we'll be looking at
6 that.

7 So again are we clear enough on how to proceed?
8 Okay. I think we're ready for the next item.

9 DEPUTY DIRECTOR LEVENSON: Okay. Thank you. We
10 have four items left, three permits and one other item.
11 The other item, Agenda Item F, Board Item 11 is a
12 discussion. And this is for the Committee only.
13 Discussion of the Committee request to review the duties
14 and responsibilities of the Board serving as the
15 enforcement agency. And Sue Markie is going to make that
16 presentation.

17 CHAIRPERSON PAPARIAN: Did anybody come from out
18 of town for this agenda item? I hate to bounce the agenda
19 around, but I know we have several people from out of town
20 for several other agenda items. I wonder if we might just
21 make it more convenient for them by doing this one last.

22 DEPUTY DIRECTOR LEVENSON: Thank you, Sue.

23 CHAIRPERSON PAPARIAN: I know you were really
24 anxious to get out of here, but we'll accommodate some of
25 the stakeholders. We'll come back to this item.

1 DEPUTY DIRECTOR LEVENSON: Good catch. I think
2 folks will appreciate that.

3 We'll go to Number 13, which is Item H,
4 consideration of the revised full solid waste facilities
5 permit transfer/processing station for the EDCO Recovery
6 and Transfer Station in San Diego County. And I believe,
7 just before Tad gets going, this is one of the facilities
8 that a waiver request will be granted for in relation to
9 the fire.

10 MR. GEBREHAWARIAT: Good afternoon. The proposed
11 revised permit is to allow the following changes:
12 Increase the permitted maximum daily tonnage from 750 to
13 1,500 tons; increase the permitted maximum traffic volume
14 from 160 vehicles per day to 1,506 passenger car
15 equivalent vehicles per day.

16 As we have indicated in the table on page 13-3 of
17 the Board's November agenda item, all of the requirements
18 for the proposed revised permit have been met. Therefore,
19 staff recommend that the Board adopt solid waste facility
20 permit decision Number 2003-482 concurring with the
21 issuance of solid waste facility permit number 37AA-0105.

22 Ms. Rebecca La Frenier, the LEA, and Mr. John
23 Schneider, the general manager of the facility are here to
24 answer any questions you may have. This concludes my
25 report.

1 CHAIRPERSON PAPARIAN: Ms. Peace.

2 COMMITTEE MEMBER PEACE: I have a question.

3 This, I know, is a very nicely run facility. I have no
4 problems with it. I notice that their permitted tonnage
5 they're taking in is doubling, but yet their hours of
6 operation are the same. And I was just wondering how
7 they're going to process double that material. Are they
8 hiring more people? Are they getting more equipment?

9 MR. GEBREHAWARIAT: All of the above I think.

10 COMMITTEE MEMBER PEACE: The size of the
11 operation is still the same, and the hours of operation
12 are still the same.

13 MR. GEBREHAWARIAT: They worked the -- since the
14 1999 permit, the worked -- the facility expanded. And I
15 believe they've added equipment and manpower. But the
16 general manager could probably expound better as to that.

17 MR. SCHNEIDER: John Schneider, General Manager
18 of EDCO. The answer is equipment. Not necessarily more
19 personnel, but it's equipment. More transfer trucks to
20 process the waste.

21 COMMITTEE MEMBER PEACE: Do you have more
22 conveyer belts and more stuff, or does it go through
23 faster or --

24 MR. SCHNEIDER: No. Just conveyer just with our
25 loader operators on a schedule, and it's more trucks. So

1 that's why the increase in the traffic.

2 COMMITTEE MEMBER PEACE: And when it comes to the
3 increase in the traffic, are there any residences nearby?

4 MR. SCHNEIDER: There are residences in the area.

5 COMMITTEE MEMBER PEACE: And how will all this
6 extra traffic affect --

7 MR. SCHNEIDER: Excuse me?

8 COMMITTEE MEMBER PEACE: How will all the extra
9 traffic affect them?

10 MR. SCHNEIDER: I can't say it's not going to
11 affect them, but we've got support from the neighbors in
12 the area. They've written letters in support of this
13 expansion.

14 COMMITTEE MEMBER PEACE: Okay. Thank you.

15 CHAIRPERSON PAPARIAN: One more quick question
16 for you. Just curiosity or maybe for somebody else.
17 You're going from 160 vehicles today, per day -- 160
18 vehicles per day to 1,506 passenger cars equivalent
19 vehicles per day. What's a passenger car equivalent?

20 MR. SCHNEIDER: That's a good question. I don't
21 know if I can answer that. We had a traffic study done.
22 And it has to do with passenger car equating to two trucks
23 and so many passenger cars equating to the type of trucks
24 they are.

25 COMMITTEE MEMBER PEACE: A big trash truck is

1 worth like four passenger car equivalents.

2 DEPUTY DIRECTOR LEVENSON: That's exactly right.

3 Page 13-4, a transfer truck is equivalent to four. You
4 got it right on the button.

5 COMMITTEE MEMBER PEACE: I just got my newest
6 Environmental Times from EDCO. You do such a nice
7 newsletter here. I want to thank them. And they also
8 have -- anybody can see down at the bottom it says "zero
9 waste, you make it happen." Thank you for that.

10 DEPUTY DIRECTOR LEVENSON: If you did the math on
11 this -- I'm sorry, Mr. Paparian. If you did the math on
12 the traffic and everything was transfer trucks, you'd be
13 talking about 300 or 400 transfer trucks. So you're not
14 talking 1500 transfer trucks coming through.

15 CHAIRPERSON PAPARIAN: Go ahead.

16 COMMITTEE MEMBER PEACE: With that, I'd like to
17 move Resolution Number 2003-482, consideration of a
18 revised full solid waste facilities permit
19 transfer/processing station for the EDCO Recovery and
20 Transfer Station, San Diego County.

21 COMMITTEE MEMBER JONES: I'll second.

22 CHAIRPERSON PAPARIAN: There's a motion and a
23 second.

24 Secretary, call the roll.

25 SECRETARY KUMPULAINIEN: Jones?

1 COMMITTEE MEMBER JONES: Aye.

2 SECRETARY KUMPULAINIEN: Peace?

3 COMMITTEE MEMBER PEACE: Aye.

4 SECRETARY KUMPULAINIEN: Paparian?

5 CHAIRPERSON PAPARIAN: Aye.

6 I think this is a candidate for consent.

7 Next item.

8 DEPUTY DIRECTOR LEVENSON: Thank you.

9 Agenda Item I, Board Item 14, consideration of a
10 new full solid waste facilities permit compost materials
11 handling facility for the Kochergen Farms Composting
12 Facility in Kings County.

13 Virginia Rosales is going to make this
14 presentation.

15 MS. ROSALES: Good afternoon, Mr. Chair and
16 Committee members.

17 DEPUTY DIRECTOR LEVENSON: You need to get closer
18 to the mike.

19 MS. ROSALES: How's that? Okay.

20 The proposed permit is for the revision of the
21 April 2000 solid waste facilities permit for the Kochergen
22 Farms Composting Facility. The facility is owned and
23 operated by Kochergen Farms Composting, Incorporated. The
24 proposed permit will allow for the following changes: An
25 expansion of the facility size from 30 acres to 60 acres;

1 an increase in traffic from 20 trucks to 40 trucks per
2 day; the addition of untreated wood waste as a feedstock;
3 an increase in the maximum daily volume of material from
4 500 tons per day to 1,000 tons per day; an increase in the
5 design capacity from 37,000 cubic yards of active compost
6 and 3,000 cubic yards of additives to a total of 208,000
7 tons of material inclusive of all material on site at any
8 given time; a change in the facility hours from 8:00 a.m.
9 to 5:00 p.m. Monday through Friday to 5:00 a.m. to 8:00
10 p.m. Monday through Saturday.

11 Board staff have reviewed the proposed permit and
12 supporting documentation and have determined all the
13 requirements for the proposed permits have been fulfilled.

14 In conclusion, Board staff recommends concurrence
15 in the issuance of the proposed permit number 16AA-002 and
16 the adoption of Resolution Number 2003-483.

17 Mr. Lewis Flores representing the LEA, Mr. Mike
18 Kochergen, the owner operator along with the facility
19 manager, Mr. Eric Espinolla, and the city of Adelanto
20 planning director are all here to answer any questions you
21 may have.

22 CHAIRPERSON PAPARIAN: Any questions members?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: Thank you, Mr. Chair.

25 I'll move adoption of Resolution 2003-483,

1 consideration of a new full solid waste facilities permit,
2 compostable materials handling for the Kochergen Farms
3 Composting Facility, Kings County.

4 COMMITTEE MEMBER PEACE: Second.

5 CHAIRPERSON PAPARIAN: There's been a motion and
6 a second.

7 Secretary, call the roll.

8 SECRETARY KUMPULAINIEN: Jones?

9 COMMITTEE MEMBER JONES: Aye.

10 SECRETARY KUMPULAINIEN: Peace?

11 COMMITTEE MEMBER PEACE: Aye.

12 SECRETARY KUMPULAINIEN: Paparian?

13 CHAIRPERSON PAPARIAN: Aye.

14 This will be a candidate for consent. Thank you
15 all for coming up.

16 Next item.

17 DEPUTY DIRECTOR LEVENSON: Committee Item J,
18 Board Item 15 is consideration of a new full solid waste
19 facilities permit, compostable material handling facility
20 for the Nursery Products LLC, San Bernardino County.

21 Virginia is also going to give you an update on
22 the status of this permit application.

23 MS. ROSALES: Well, the revised report of
24 composting site information was received on October 29th.
25 The changes to the RCSI are in the owner impact

1 minimization plan which staff are still reviewing. And a
2 revised proposed permit was received on October 31st. You
3 should have a copy of that before you now. And copies are
4 on the back table for anyone interested. The Board's
5 website will be updated soon.

6 The changes in proposed permit are on page 5 and
7 6 in the LEA conditions. In summary, most of the changes
8 were made for clarity. Some of the conditions in the
9 previous proposed permit were moved under a category of
10 odor, vector, dust, or litter. New conditions have been
11 added which establish the conditions by category. The new
12 conditions are R, S, T, U, and V. A new bullet that
13 appears under each these new conditions that I just
14 mentioned, except for V, reads as follows: "Provide a
15 community outreach program to include periodic stakeholder
16 meetings." Based on this submittal of the revised
17 proposed permit on October 31st, the last day the Board
18 may act is December 30th, 2003.

19 During the period of October 14th through October
20 24th, Board staff have received a few faxes and telephone
21 messages from surrounding businesses and neighbors of
22 Nursery Products opposing the proposed permit.

23 On October 24th, 2003, Board staff and the local
24 enforcement agency went to Nursery Products for a site
25 visit. The purpose of the site visit was to observe the

1 composting operations. No excessive flies, dust, odors,
2 or litter were identified on or off site during their
3 visit.

4 On October 29th, Board staff received word from
5 the city of Adelanto attorney, Ms. Battersby, that a
6 public meeting between the city, Nursery Products, and
7 concerned citizens was scheduled for that night. However,
8 because of the fire, the meeting was canceled and has been
9 rescheduled to November 5th.

10 On October 30th, Board staff spoke with
11 Ms. Jennifer Edge of the Los Angeles Department of Water
12 and Power and made another request for the Department to
13 provide us with documentation and/or data to substantiate
14 their complaints and concerns regarding the impacts or
15 potential impacts that the operation of the composting
16 facility have or may have on the converter station.

17 On October 31st, Board staff spoke with Randy
18 Howard, an electrical engineer with the Department of
19 Water and Power regarding our request for data. Did
20 notice people from the Department here, and I'm not sure
21 if Mr. Howard is here or Ms. Edge. They may be able to
22 provide an update on our request.

23 Board staff are updating the agenda item to
24 reflect this information that has been provided to the
25 Committee today, and it will be posted on our website

1 soon. Board staff is still reviewing the revised proposed
2 permit and the CEQA record and therefore do not have a
3 recommendation at this time.

4 This concludes staff's presentation. The LEA was
5 not able to make it up today due to the fires, so they are
6 not here. And I'm not sure if the operator is here today.

7 CHAIRPERSON PAPARIAN: Can I just clarify on the
8 process here? We do have some folks wanting to testify
9 today. We'll take that and take any comments from the
10 Committee members. But I'm hearing that the staff isn't
11 ready with their recommendation yet because of the
12 revisions. Is it the intention to have this come up at
13 the November Board meeting?

14 DEPUTY DIRECTOR LEVENSON: As of this time, yes.

15 CHAIRPERSON PAPARIAN: Okay. And our expectation
16 is that if necessary the LEA would be available?

17 DEPUTY DIRECTOR LEVENSON: Yes.

18 CHAIRPERSON PAPARIAN: Okay. Any questions of
19 staff?

20 Ms. Peace.

21 COMMITTEE MEMBER PEACE: The only question is you
22 did mention that they put in here they have periodic
23 community outreach programs and stakeholder meetings. Is
24 there anything that says what periodic is? Is that
25 monthly? Yearly? Every five years?

1 MS. ROSALES: I don't know. I don't have that
2 information. This is my first time looking at this
3 proposed permit today, so I have not had the opportunity
4 to speak with the LEA on that.

5 CHAIRPERSON PAPARIAN: That would be then a
6 question to clarify with the LEA if they're not available.
7 I'm seeing a gentleman in the back raising his hand, the
8 operator. Why don't we just finish with a couple
9 questions, and then if you can help clarify some of those
10 we'll get to you.

11 Did you have some others, Ms. Peace?

12 Let me just ask, you mentioned the November 5th
13 meeting. Who is facilitating that meeting again?

14 MS. ROSALES: The city of Adelanto.

15 CHAIRPERSON PAPARIAN: The city of Adelanto.

16 It's not a hearing. It's a public --

17 MS. ROSALES: Public hearing. It's my
18 understanding maybe --

19 MR. De BIE: Mr. Chair, if I may. Mark De Bie
20 with Permitting and Inspection.

21 I've spoken with the city attorney. She called
22 us and was seeking information about our process and what
23 was occurring up here at the state level. In the course
24 of that conversation, she shared with me that there was, I
25 believe, a City Council meeting that is scheduled for the

1 5th. All the City Council members have been noticed to be
2 there. Whether they're there or not, I'm not sure, given
3 the fire situation still.

4 The intent of that meeting is to provide a forum
5 for the community to express their concerns relative to
6 Nursery Products. She indicated that in the previous City
7 Council meeting, 75 or more citizens did appear and gave
8 testimony during the public testimony period of that
9 regular meeting. It wasn't agendized, but during that
10 public testimony, they did take an opportunity. So based
11 on that, they decided to have an additional forum.

12 It's my understanding that after that testimony
13 and staff report to the City Council that the City Council
14 will direct their staff to take some action one way or the
15 other relative to either the use permit they've issued
16 Nursery Products and/or the CEQA documentation related to
17 that waiver. That's staff's understanding, again, based
18 on a conversation with the city attorney what the intent
19 of that meeting might be.

20 CHAIRPERSON PAPARIAN: Okay. Thank you.

21 I don't know your name, but did you want to just
22 answer her question? Or if you want to speak more
23 generally, I'll put you -- you just want to answer the
24 question. Okay. Come on up. And if you can identify
25 yourself for the record too.

1 MR. BINGUM: Bernie Bingum, Chesapeake
2 Environmental Group representing Nursery Products.
3 Periodic was discussed with the LEA and with
4 Waste Board staff at a meeting a week ago Friday at the
5 facility in Victorville. The same question came up as to
6 what does periodic mean. And we recognize that it means
7 as often as is necessary. We agreed at that time that
8 when we reached submittal for the odor plan that it would
9 be a dynamic document. And based on conversations after
10 this coming Wednesday at that meeting where the Nursery
11 Products proprietor/owner will be there, we'll be able to
12 fill in more details. But it's a work in progress.

13 CHAIRPERSON PAPARIAN: Thank you very much.

14 I have two speakers, Randy Howard and Jennifer
15 Edge, whatever order you want to go in. Both with the
16 Los Angeles Department of Water and Power.

17 MR. HOWARD: Good afternoon, Mr. Chairman and
18 Commissioners. My name is Randy Howard. I'm a registered
19 electrical engineer for the Los Angeles Department of
20 Water and Power. I've been with L.A. DWP for
21 approximately 15 years, and during this period, I've
22 worked in oversight for the high voltage testing and
23 testing activities related to insulators, flash overs,
24 conductivity studies for facilities, including the
25 Adelanto converter station.

1 Today it's my understanding you've already been
2 briefed on the importance of this facility, so I'm not
3 going to dwell on that as to the importance in Los Angeles
4 and the Southern California region for this facility. But
5 this facility is quite unique. There's probably about ten
6 or less of these facilities in the nation where you
7 convert high voltage direct current into alternating
8 current. And I hope to speak a little bit on some of
9 those complexities and the technical issues that we have
10 with the proximity of this facility to our operations.

11 So from my experience in working with insulators,
12 flash overs, transient voltages, I'm going to try not to
13 get too technical here, but we can answer any questions
14 you might have. Typically, with insulators and electrical
15 equipment we try to have what we call voltage gaps, and we
16 would say about an inch is about 10,000 volts. So if you
17 had an electrical wire that was energized and you had it
18 ground about one inch, 10,000 volts, it would flash over
19 in error. We're talking a station with 500,000 volts. So
20 that kind of gives you an idea of what we try to have as a
21 gap for the electrical equipment to be insulated.

22 We're very conservative there because, you know,
23 of a lot of other conditions that would take place. In
24 the construction of this facility, we designed -- created
25 the specifications, constructed the facility based on the

1 environmental conditions that we knew existed, and that
2 would take into consideration desert dust. That would
3 take into consideration the wind, moisture, humidity, and
4 the type of activities that would be going on.

5 The proximity of the Nursery Products facility
6 next to us has changed those conditions such that our
7 equipment is certainly at risk for flash over, for
8 transients. Some of the examples of what's going on take
9 just the trash, the activity that's going on with trash.
10 We're getting a lot of trash coming into our facility
11 being caught near our equipment. An example would be a
12 mylar balloon. You're all aware these balloons get up
13 near the high voltage lines. They hit the high voltage
14 lines. We have electrical flash overs, failures, and the
15 power grid goes down.

16 It's very similar. You have some of this trash
17 that comes over into our facility. And if it gets near
18 the insulators, that spacing that we need -- that 50-plus
19 inches that we have to have to keep things flashing over.
20 Every contaminate we get in there reduces that spacing.

21 I have some photos that were taken just the other
22 day, October 30th, as to some of the trash that is coming
23 onto the fence and into that facility. That's a great
24 concern for us. These things come up against our
25 equipment, and there is the potential for flash over.

1 The other issue we have is related to the
2 airborne materials. We get the airborne materials from
3 their operations coming onto our equipment. And what will
4 happen is this --

5 CHAIRPERSON PAPARIAN: Hold on. We're getting
6 distracted by your photos. Are they all different, or are
7 they sets of the same?

8 MR. HOWARD: They are I believe a little bit
9 different. They're of the same day, same fence line.

10 CHAIRPERSON PAPARIAN: We'll pass them around.
11 Thanks. You can keep going.

12 MR. HOWARD: So the airborne materials that are
13 coming over from the mulching activity are collecting on
14 the equipment. And we have the risk then of moisture
15 getting into it and then material flashing over, reducing
16 the resistance of those insulators. Being this equipment
17 is very unique, if we had a failure in that equipment,
18 it's very challenging for us to replace it and get that
19 equipment back in operation. It's quite cumbersome.

20 Kind of an example of what's been going on with
21 some of the dust is last week as we were having the Santa
22 Ana winds, very high winds, warm winds coming into
23 Southern California fueling the fires, it's picking up
24 some of this material coming into the station. We were
25 having record electrical usage loads on our system for

1 this time of year, so this facility was critical.

2 And then we were getting this material coming in,
3 and we couldn't do much about it in the way of cleaning.
4 We can't clean our equipment while it's energized for this
5 high voltage DC equipment. We have to de-energize it.
6 Obviously, we're unable to do that at will.

7 So we had this situation going on with the Santa
8 Ana winds. We had the fire going on through the Cajon
9 Pass. The fire caused several circuits to relay for
10 Southern California Edison, also for DWP. The fire is --
11 what caused it to relay was the smoke and the
12 contamination going up on the insulators of the towers,
13 very similar to what's going on in our station from the
14 neighboring Nursery Products facility.

15 So from a technical side of the house, we were
16 trying to look at how we could mitigate this activity.
17 And again, one way you might mitigate dust coming into
18 your facility is you would wash or clean more frequently.
19 Because of this facility, the way it was constructed and
20 because of the high voltage, we are unable to do the
21 washing to the frequency that might be needed to reduce
22 that risk.

23 The other problem with the flying debris, the
24 things coming up to the fence line and jumping the fence
25 line, obviously greater containment there might assist us

1 in mitigating the risk of that coming into our station
2 flash over or a transient that might occur. So there
3 might be some things they can do with the trash with the
4 dust and the particles. We don't at this time have a
5 solution available to us.

6 Our air handling equipment, we have what's called
7 a large thyristor valve in the facility for the conversion
8 process. And if you go into the room there, it's almost
9 like a medical operating room where we try to keep it
10 quite clean. We've had to change the air handling
11 equipment double the frequency since their facility came
12 into operation due to the dust activity. We're also
13 having to clean our relay room every month, whereas it
14 used to be every six months due to the dust activity going
15 on.

16 So from a technical perspective in trying to keep
17 that facility in operation, we do not believe that we have
18 a compatible use due to the proximity of the Nursery
19 Products facility.

20 And with that, I'm willing to answer any
21 questions you might have.

22 CHAIRPERSON PAPARIAN: Any questions?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: Just a couple. Thank
25 you.

1 These pictures, the fence is actually -- whose
2 fence is that? This one, that's catching all the litter.

3 MR. HOWARD: I believe that fence is our fence.

4 COMMITTEE MEMBER JONES: Because there's piles of
5 compost behind it. So you took this picture from their
6 property into your property?

7 MR. HOWARD: That picture is taken from our yard.

8 COMMITTEE MEMBER JONES: So it goes out?

9 MR. HOWARD: Correct.

10 COMMITTEE MEMBER JONES: So is the fence their
11 fence, their litter fence?

12 MR. HOWARD: I believe that particular fence is
13 our fence. There's two different fences that you might
14 see in the photographs.

15 COMMITTEE MEMBER JONES: Because I was at the
16 site for quite a while. And you know, I mean if it's --

17 CHAIRPERSON PAPARIAN: Just to help clarify, as I
18 was looking at the pictures, there were two fences. One
19 had barbed wire on top; one did not. Are both of those
20 your fences or just the barbed wire one?

21 MR. HOWARD: The barbed wire fence is our fence.
22 I believe the other fence is their collection fence.

23 COMMITTEE MEMBER JONES: So this is a litter
24 fence. This is a litter fence. So it is actually doing
25 what it is intended to do because there's no litter on the

1 other side. The litter stopped at the fence.

2 MR. HOWARD: That is not quite correct. We have
3 been finding -- and we do collect daily litter on our
4 side.

5 COMMITTEE MEMBER JONES: I'm sure there is. But
6 the picture shows a litter fence doing its job and no
7 litter from the fence into your property. And I think
8 that's important.

9 Now just so you know, I went down after the
10 hearing. My truck broke down as I got there. So I was
11 able to spend three-and-a-half-hours at this site, which
12 gave me a real firsthand opportunity to investigate all of
13 the concerns. Had two biosolid trucks show up. One of
14 them I asked them where they were from because they
15 smelled like soap. It didn't even smell like biosalt. We
16 used to haul it so I have a pretty good idea of how rank
17 that can be.

18 But the one thing that I need to know is your
19 site is here and their site is here for the sake of this
20 conversation. Tell me where north is. If their site is
21 here, your site is here, which direction is north?

22 MS. EDGE: We're due north of their site.

23 COMMITTEE MEMBER JONES: One of the issues --
24 because I am sympathetic to this being done right. Okay.
25 But I want to look for myself. But in driving to this

1 site I was hoping to smell something so I could find it.
2 I know where your place was, but I was having a hard time
3 down some dirt road which probably did break my truck
4 anyway. But I couldn't smell it. I couldn't even smell
5 it really until I was on the site. But I did smell the
6 organic at about 7:30, 8:00 at night as it started to cool
7 down.

8 The one thing I saw both days was a wind
9 direction coming out of the north to the south from your
10 facility into my face as I stood on the berm. Meaning,
11 coming at me this way. So I wasn't sure if that was
12 constant or, you know -- I mean I've run some landfills
13 with Santa Ana winds. And God only knows where the wind
14 comes in those cases.

15 But I went to the airport and tried to get the
16 prevailing wind. The prevailing winds seems to be present
17 the north to the south. And so with the prevailing wind
18 going from the north to the south, that sort of begs the
19 question exactly how is the dust -- the wind doesn't go
20 that high anyway most of the time. And I'm sure there's
21 some east and northeast, and it did change one day
22 completely. But the dust that you're seeing on an average
23 day down there with the wind traveling from your facility
24 to the composting facility, how do you think that dust is
25 getting there? I mean, that's problematic for me to try

1 to figure out knowing those conditions exist. I mean,
2 could it be coming from another site north of you?

3 MR. HOWARD: I'll probably turn that question
4 over to the environmental folks. One of the things we
5 hope to do very soon because of coming through the summer
6 months and just up into the end of October here with some
7 really high temperatures, we have not been able to take
8 some of the equipment out of service that we plan on
9 taking out. And we'll do some actual testing there with
10 some swabs and get some samples that -- what we will
11 verify where it's coming from and the make up of that
12 dust.

13 You know, all we can speak to is we have been out
14 there. I think we were building that facility in 1984.
15 We've been out there and operational for a long period of
16 time. The conditions that we're seeing today are
17 different than what we saw prior to the operation come
18 into place. And based on the products and what they're
19 doing in their operation and the proximity to our
20 facility, I'm very concerned on the technical aspects of
21 flash over. We did not design that facility with the
22 reductions in the resistance on those insulators. That's
23 what I'm concerned about.

24 COMMITTEE MEMBER JONES: Okay. All right. And
25 that's a reasonable concern. But I'm trying to figure

1 out, you know, based on the prevailing wind and things
2 like that if, in fact, it's coming from there or what they
3 can do in mitigation, you know, to try to ensure -- I
4 mean, clearly I'm glad they've got this because it's not
5 on your property because --

6 MR. HOWARD: We are having to -- we have staff
7 daily going out and collecting trash on our property.
8 That is still a problem. I think the fence is doing a
9 great job. But they still are having to go out and pick
10 up trash.

11 CHAIRPERSON PAPARIAN: I had the same question
12 when I looked at the pictures. But the pictures to me, if
13 your facility is north and they're south, the pictures
14 would indicate to me the winds are blowing from the south
15 to the north, at least on the day those pictures were
16 taken --

17 MR. HOWARD: Because it's up against --

18 CHAIRPERSON PAPARIAN: -- because of the trash
19 against the litter fence. It did appear to me there was
20 some debris on your side of the litter fence, if that's
21 where the pictures were taken. It did look -- I could see
22 some plastic bags and other items over there. But
23 certainly the bulk of it was being caught by the litter
24 fence, but it appeared to me that's not 100 percent.

25 COMMITTEE MEMBER JONES: Right. And these were

1 taken how long ago?

2 MR. HOWARD: Those were October 30th.

3 COMMITTEE MEMBER JONES: Okay. So just five days
4 ago.

5 MR. HOWARD: Correct.

6 COMMITTEE MEMBER JONES: During the Santa Anas.

7 MR. HOWARD: Correct.

8 COMMITTEE MEMBER JONES: Which has a tendency to
9 change, you know, but that's cool. All I'm trying to
10 figure out is if the fences weren't working, then there
11 would be a problem. But anything in the Santa Anas --
12 I've seen garbage bags that weigh 30 pounds fly through
13 the air as they came to hit me.

14 MR. HOWARD: I guess what I'm trying to explain
15 is we don't have that ability to quickly react when the
16 wind changes to get out there and somehow mitigate this
17 against our facility and keep it in operation.

18 COMMITTEE MEMBER JONES: Right. I understand
19 that. That's what the permit could do.

20 MR. HOWARD: Thank you.

21 COMMITTEE MEMBER PEACE: Can I ask a question?

22 CHAIRPERSON PAPARIAN: Yes. Ms. Peace.

23 COMMITTEE MEMBER PEACE: In terms of insulators
24 on the transmission lines, do you have porcelain or
25 polymer?

1 COMMITTEE MEMBER PEACE: We have both, I believe,
2 within that station.

3 COMMITTEE MEMBER PEACE: You have both?

4 MR. HOWARD: Correct.

5 COMMITTEE MEMBER PEACE: Is it true that you have
6 reduced exposure to flash overs with the polymer?

7 MR. HOWARD: That is correct.

8 COMMITTEE MEMBER PEACE: Also in your opinion is
9 there anything that Nursery Products can do to mitigate
10 your concerns, or do you think they just need to be
11 relocated?

12 MR. HOWARD: Well, we have met with them, and
13 they have made attempts to mitigate some of this activity.
14 Probably based on the results of their mitigation to date,
15 I would probably say recommend that they would need to
16 relocate because the proximity is not going to be
17 compatible.

18 COMMITTEE MEMBER PEACE: And maybe our staff
19 knows this. Who decides if facilities are compatible? Is
20 that done at the local level?

21 DEPUTY DIRECTOR LEVENSON: That's strictly a
22 local land use planning issue and decision.

23 COMMITTEE MEMBER PEACE: Thank you.

24 CHAIRPERSON PAPARIAN: I did a quick little
25 Internet search on flash overs, and I found there was a

1 flash over in Seattle about a month and a half ago
2 involving dust. How common are outages due to dust and
3 dirt? Is that an unusual circumstance that I happened
4 upon when I looked for it? Or do they happen quite a bit
5 around the country?

6 MR. HOWARD: Well, that's certainly one of the
7 items that we work on constantly to keep the reliability
8 high. And that's keeping the insulators and pieces of
9 equipment clean, as well as keeping trees and other things
10 away from them so when the winds do come up. An example
11 was last Friday in the Cajon Pass due to a fire. I mean,
12 the fire when you have a lot of the smoke with
13 contaminants in the smoke, that's enough to cause a flash
14 over to occur. So it's like having a dust storm and
15 collecting. And it almost caused a very significant
16 outage in Southern California because of that fire and the
17 smoke.

18 CHAIRPERSON PAPARIAN: Okay. Thank you.

19 COMMITTEE MEMBER PEACE: I understand you will be
20 at the City Council meeting on November 5th?

21 MR. HOWARD: I personally will not be, but I'm
22 sure a representative of Los Angeles Department of Water
23 and Power will be.

24 COMMITTEE MEMBER PEACE: Somebody will be there
25 to voice your concern.

1 CHAIRPERSON PAPARIAN: Thank you.

2 Ms. Edge.

3 MS. EDGE: Jennifer Edge, Los Angeles Department
4 of Water and Power.

5 I want to address some of the CEQA issues.
6 Because of the substantial changes of the project, the
7 city of Los Angeles is requesting that a subsequent
8 environmental impact report be prepared as is required
9 under Section 21166 of the Public Resources Code and the
10 CEQA guidelines 15162.

11 The current operations have resulted in
12 significant environmental impacts that weren't evaluated
13 in the original EIR including dust, vectors, and odors.
14 In the proposed permit, finding 13e states that the EIR
15 described and supports the operation which will be
16 authorized by the issuance of this permit.

17 In reviewing the project EIR, they evaluated
18 traffic of 200 trucks per day. The proposed permit is
19 allowing up to 2,000 trucks per day. That is a 900
20 percent increase.

21 The tonnage in the EIR was evaluated at 6,000
22 tons per month. The proposed permit is 4,000 tons per
23 day. That is a 1500 percent increase.

24 The original throughput for the facility was
25 96,000 cubic yards per year. The proposed permit is 249

1 cubic yards allowed on site at any one time. That is a
2 250 percent increase.

3 And the stated hours of operation are 7:00 a.m.
4 to 5:00 p.m. However, there's a condition conditioned in
5 which would allow them to operate 24 hours a day, if
6 necessary. That would be a substantial increase.

7 Finding 13d of the proposed permit states that
8 the city of Adelanto Fire Department has determined that
9 the facility is in conformance with applicable standards.
10 There currently is not a city of Adelanto Fire Department.
11 It should be the county of San Bernardino Fire Department.

12 The Board report indicates that the major
13 equipment on site on the on-site structures at the L.A.
14 DWP station were clean. L.A. DWP is not aware of any
15 Board staff touring our facility. We know they were at
16 our administrative building but not touring the yard. We
17 would be more than happy to have people come out and tour
18 the facility to actually see the equipment and how it has
19 been impacted by the dust.

20 And the odor plan submitted by the operator dated
21 October 27th indicates that since green waste has been
22 delivered on site and on an as-needed basis, there have
23 been no green waste odors observed. That hasn't been the
24 case. Our facility has continued to be impacted by the
25 green waste odors.

1 That's all I have. Available for questions.

2 CHAIRPERSON PAPARIAN: Thank you very much.

3 Now, Ms. Edge has raised some issues regarding
4 CEQA. As I read our agenda item, staff is still reviewing
5 CEQA related issues. Are you ready to report on those, or
6 do you need to look at them in light of the revisions to
7 the permit and come back to us on that?

8 MR. De BIE: We need to continue looking at the
9 issues. And Ms. Edge has summarized the group of issues
10 that we continue to look at.

11 CHAIRPERSON PAPARIAN: Okay. Our staff -- I
12 think you indicated you needed some questions answered.
13 You were hoping they'd be answered by DWP when they
14 testified. Do you feel that you got what you needed or --

15 MR. De BIE: I think the testimony from
16 Mr. Howard was the character of what we were looking for.
17 If you recall from previous testimony, there were -- I
18 don't want to call them allegations. But there were
19 statements made that weren't necessarily supportable. I
20 think information about frequency of the maintenance and
21 those sorts of things are the character of the kind of
22 data, the kind of specific impacts that we were seeking.

23 Certainly, we'll encourage Mr. Howard and others
24 to provide us with additional information, photographs,
25 you know, when they go out and pick up litter and the

1 frequency of that, anything that would help us understand
2 the specifics of the impacts to their site. Because part
3 of what we're grappling with here is trying to define the
4 extent of the problem that Water and Power is trying to
5 portray to us so that we can match that to what our
6 understanding of the site and the operation and the
7 mitigations that the site has in place to see where there
8 might be any gaps or issues that need to be addressed. So
9 we'll continue to encourage them to give us as much data
10 as they can so we can make those comparisons.

11 CHAIRPERSON PAPARIAN: Okay. Thank you.
12 Anything else for this witness? Okay. So thank you very
13 much.

14 The staff has indicated to us that they're still
15 reviewing these items, that they aren't prepared because
16 of this review to give us a recommendation at this point.
17 But we'll have it in time for the Board meeting in two
18 weeks. So my thought is that we -- and I think certainly
19 we would have to hear this again at the Board meeting in
20 any event. But that we move this to the Board without a
21 recommendation since we're still awaiting the staff
22 recommendation on this.

23 Does that seem okay, Members?

24 Okay. That's what we'll do. So sorry you're
25 traveling back and forth so much. But we'll be having

1 another hearing again, unless you hear otherwise, at our
2 Board meeting in two weeks.

3 MR. De BIE: Mr. Chair, I forget if Virginia
4 noticed this in her comments, but at that meeting on the
5 5th, we will be providing a written public notice of the
6 Board meeting so the community will be more aware of the
7 activities here in Sacramento. So we made an effort to
8 outreach to the community about this process.

9 CHAIRPERSON PAPARIAN: Do we have somebody from
10 the staff who is going to sit in on that meeting? Or no?

11 MR. De BIE: I'm willing to if so directed.

12 CHAIRPERSON PAPARIAN: I'm not going to direct
13 you to do that. I'll leave that up to the staff whether
14 they feel it --

15 MR. De BIE: I think staff feels it's important
16 to hear the discussion between the community and the city
17 and the operator firsthand. So we'd be willing to attend
18 as observers, anything.

19 CHAIRPERSON PAPARIAN: Okay. I want to note that
20 I really appreciate -- I'm sure all the Committee members
21 do -- the amount of effort the staff has put into looking
22 into this permit and the issues around it. I know Jeff
23 Watson has spent quite a bit of time with the LEA and at
24 the facility looking at what's going on and trying to, you
25 know, assure that our job is as good as it can be. So I

1 want to thank you, Mr. Levenson, and Jeff Watson. I'm
2 sure there's others involved as well. Thank you.

3 DEPUTY DIRECTOR LEVENSON: Mr. Chair, we have one
4 item left, and that is the discussion on the Board serving
5 as the enforcement agency.

6 MS. MARKIE: Good afternoon, members of the
7 Committee. The Permitting and Enforcement Committee has
8 requested staff provide information on the duties and
9 responsibilities of the Board when serving as the
10 enforcement agency in lieu of a local enforcement agency.

11 DEPUTY DIRECTOR LEVENSON: Excuse me, Sue. Can
12 you identify yourself for the record?

13 MS. MARKIE: I'm sorry. Sue Markie.

14 I'm going to be using some acronyms. LEA is for
15 local enforcement agency.

16 So today I'll be updating you on the role of the
17 Board serving as the enforcement agency. The other
18 acronym is EA for enforcement agency. The enforcement
19 philosophy, enforcement action, and the public notice
20 process.

21 So how does the Board become the EA? Basically,
22 there are four ways: If there is no LEA designated and
23 certified by the Board; if the local governing body
24 withdraws its designation and does not designate an
25 alternative LEA, such as an adjacent county; if the Board

1 withdraws approval of the designation and the local
2 governing body does not designate an alternative; and also
3 the Board can assume partial responsibility for specific
4 duties, such as enforcement, permitting, or inspection for
5 a specific site or situation.

6 In June 1993 the EA section was created within
7 the Permitting and Enforcement Division. And we do the
8 day to day oversight in the jurisdiction where we serve as
9 the EA. And as a result, the section is charged with all
10 the primary responsibility for carrying out all required
11 duties and responsibilities. And we follow the same laws
12 and time frames as any LEA. Currently, the Board serves
13 as EA in the following jurisdictions: The counties of
14 Santa Cruz and Stanislaus, the cities of Paso Robles
15 Berkeley, and Stockton. We're responsible for 30
16 facilities and operations in 28 closed, illegal, and
17 abandoned sites. This is outlined in Attachment 1.

18 A little bit about the enforcement philosophy.
19 We have an enforcement program plan just like any LEA
20 does. And in it is outlined everything, all of our
21 permitting, our enforcement, our inspections. Any
22 procedure that we've come across so far is in this little
23 manual. And our goal is to ensure the protection of the
24 public health and safety of the environment. And we
25 pursue enforcement by all available means.

1 So enforcement action levels are based on the
2 seriousness of any issue. And our goal is to ensure
3 compliance in as short a time as possible. So basically
4 each enforcement level builds on itself to address the
5 specific issue. And an issue may go directly from an
6 enforcement inspection right into a notice of order
7 depending on the situation. In the agenda item we've
8 outlined the levels A through D. And I didn't know how
9 much you wanted me to go through those, but basically it
10 starts with inspection, either a monthly per our
11 requirements, or we can be following up on a complaint, or
12 just someone's concern. We'll go out and check it out,
13 figure it out, do a written inspection, talk it over with
14 the operator, if it's a permitted facility, or we'll try
15 to get ahold of the landowner if it's an unpermitted
16 illegal dumping sort of activity.

17 Basically, if it's an illegal activity, it will
18 go right to a cease and desist. We only even schedule
19 anything else within the other levels. We'll go right to
20 that, address the illegal dumping, and tell them they need
21 to stop doing what they're doing and correct what they've
22 done. So there's solid waste on the site, and then they
23 depress to remove it. Otherwise, with our permitted
24 facilities, we always meet with the operator upon the exit
25 interview, let them know what we've seen. If it's a

1 violation, we'll tell them what's wrong and when we want
2 it corrected by. If we need to go a little further we'll
3 have a meeting. May need to involve the Water Board or
4 the Air Board or the local CEQA people. Then we'll
5 schedule a meeting so all parties can be involved.

6 Action level B goes into the 90-day notice of
7 intent. If a facility has a violation for two months,
8 we'll let the facility know that they will be listed on
9 the inventory if they do not correct the violation. That
10 third month we go out and if the violation still there,
11 then they do go on the inventory list.

12 Action level C identifies all the notice and
13 orders. Basically a notice and order is a legal document
14 identifying what's wrong at a facility and steps to
15 correct it by a certain time line. And in it there is
16 cease and desist orders. There's corrective action
17 orders, and there's compliant orders. Basically it's the
18 same thing. It's just a notice and order. The stipulated
19 notice and order is the same thing. You're working with
20 the operator. It's signed by both the operator and the
21 Board saying it's going to take over 90 days. Let's look
22 at what we need to do. Like for a gas instance, it's kind
23 of more of a working document, more of a team identifying
24 the problems.

25 Action level D, we have not used this avenue yet,

1 but we do have the steps in place. We've always been able
2 to have compliance within the notice and order, cease and
3 desist levels. If we had to be to action level D, we have
4 it outlined to be working through our legal. And our
5 legal reviews all of our notices and orders prior, before
6 going out.

7 Since 1993 we've issued 25 enforcement orders.
8 And I've attached that as Attachment 2. And basically
9 there's seven notice of intents to list; six that actually
10 got listed on the inventory; ten notice and orders; and
11 two cease and desists. And the majority of the notices
12 and orders have been for landfill gas issues. And
13 typically that happens because even though the facility
14 may actually have the system installed, there'll still be
15 migration at the boundaries. It takes a lot to tweak a
16 system. Sometimes because it's in, it doesn't mean
17 they're pulling too hard on one end or another. It's
18 really quite the science in talking to the folks at the
19 landfills.

20 Sometimes it will come up and they'll have
21 violations and they get listed on an inventory, but it
22 doesn't mean they don't already have the system in place.
23 It's just they're having problems, and we, as the EA, need
24 to address that. Some of them are paperwork, such as
25 permits. You can see in the attachment we kind of listed

1 out what the problem was. But all in all, I would like to
2 state that operators and owners we deal with in our
3 permitted facilities have been very forthcoming on
4 correcting any problems.

5 The other thing is the public notice process.
6 The EA section is striving to respond to community
7 concerns as soon as possible. And we maintain a current
8 list of all pending solid waste facility permit
9 applications, and we'll mail written notices of
10 application to every person who is requested to be put on
11 that list.

12 And although a request may not be given to us, we
13 still will meet one of the following methods of speaking
14 with the public. That's we'll publish what's happening,
15 whether it's a revised permit coming up or new permit in
16 the local paper. We post notices in the local area, and
17 we've done direct mailing to the neighborhood community
18 that's most affected by the changes.

19 And for the California Environmental Quality Act
20 purposes, the public notice times are dependance upon that
21 document prepared for the project. And this goes through
22 the same public review. Once a CEQA document establishes
23 45-day comment period in which we would be commenting to
24 as the responsible agency. And usually the public hearing
25 is at the local level. Of course, effective January 1st,

1 2004, AB 1497 will require additional public hearings.

2 And currently we're revising our procedures to accommodate
3 those new laws.

4 And we're also aware of public concerns
5 surrounding the proposed expansion at the Fink Road
6 Landfill in Stanislaus County. And we're currently
7 working with the local community group establishing
8 setting up some meetings. Right now the EA section, we
9 don't have any legal responsibility over this proposed
10 project. But once it does come out, then we will have
11 responsibility to review the CEQA documents and work
12 towards a permitting process. But what our hope is to go
13 meet with the community and explain to them exactly what
14 our role is and how the permitting process works so
15 they're informed.

16 And I'm available to answer any of your
17 questions. And I also extend the invitation if any of you
18 or your staff wants to come out and do a local tour.
19 Stanislaus County is pretty close. We'd be happy to take
20 you out and about.

21 CHAIRPERSON PAPARIAN: Any questions, Members?

22 I have a quick question. In terms of public
23 notice, you said that you let people know, who have
24 expressed an interest about a facility, you let them know
25 what's coming up in terms of permitting and so forth. How

1 does someone know they could get on such a list? Do you
2 just add people who have attended meetings and expressed
3 an interest or --

4 MS. MARKIE: Pretty much we always let the people
5 know -- like in Santa Cruz County there's one road that
6 leads up into the landfill. We work with those neighbors
7 so they know. And the city and/or the county also puts
8 notices in the paper. So I mean, we do it above and
9 beyond what's happening at the local level. But I mean,
10 that is a really good question. And people may not know.
11 We try to put the word out there. But usually it's the
12 people that are concerned or have been following a
13 particular issue that are the ones noticed.

14 CHAIRPERSON PAPARIAN: Okay. Thanks.

15 Ms. Peace.

16 COMMITTEE MEMBER PEACE: I just have a general
17 question. On AB 1497 and the public hearings, in that
18 bill is it spelled out exactly how to handle the public
19 hearings? Like how far away people have to be noticed, or
20 is that something that we at the Board will --

21 DEPUTY DIRECTOR LEVENSON: It does have a number
22 of prescriptions on the distance and how you notice and
23 several other requirements. Certainly we can go beyond
24 that. I don't have the details.

25 CHAIRPERSON PAPARIAN: I mean, this came up in

1 the workshop on Friday as well, some -- not necessarily
2 issues, but some interest in what 1497 is going to require
3 and how it's going to work. I think maybe we need to hear
4 a brief presentation.

5 DEPUTY DIRECTOR LEVENSON: We certainly could.
6 We were going to do that in a couple of different ways.
7 One is the agenda item that comes back in January with
8 respect to the C&D requirements as a -- one of those is
9 public noticing. And 1497 differs from the current
10 requirements in the C&D Phase One. I think C&D Phase One
11 may be a little bit more restrictive. So we were going to
12 compare and contrast. And certainly we're going to have
13 to look at revising the regulations to conform to 1497 in
14 general anyway. We would be stricter. But we could come
15 in December -- I could give you the Deputy's report and
16 update, or I could get you a memo out sooner than that in
17 terms of what 1497 calls for.

18 CHAIRPERSON PAPARIAN: I think we heard it on
19 Friday that you're going to be providing something to LEAs
20 fairly soon, giving them guidance. I think the law says
21 basically you can operate under the law as it ought to be
22 or that we have the authority to adopt regulations. So I
23 think, yeah, coming back in December -- since it takes
24 effect on January 1st, coming back in December and letting
25 us know at least what you're telling the LEAs and how you

1 think it's going to be implemented would be a good thing.
2 And I'll leave it to you and legal staff to determine
3 whether that should be an agenda item or whether we can do
4 that as part of your report.

5 DEPUTY DIRECTOR LEVENSON: If you would like a
6 little bit more -- Sharon just handed me the draft that
7 we're developing for the LEA advisory. If you want me to
8 run through a couple of the points now, I can, regarding
9 the public hearing.

10 CHAIRPERSON PAPARIAN: Do you want to hear some
11 of that now or hold off until December? Ms. Peace
12 indicates she wants to hear it now.

13 DEPUTY DIRECTOR LEVENSON: It's just a few of the
14 key provisions. It requires EAs to hold a public hearing
15 before making a determination on an application for a
16 revised permit. And this speaks to revisions of permits.
17 Authorizes -- well, let's see. It doesn't have the
18 details on the distances.

19 COMMITTEE MEMBER PEACE: That's what I was
20 wondering. It says it requires public hearings and a
21 revision, but I was wondering, does it go into more
22 detail?

23 DEPUTY DIRECTOR LEVENSON: It does, and we don't
24 have that detailed information in this.

25 COMMITTEE MEMBER PEACE: So it's something that

1 is spelled out more specifically in the bill itself?

2 DEPUTY DIRECTOR LEVENSON: To some extent.

3 CHAIRPERSON PAPARIAN: So I think coming back in
4 December with a little bit more on that would be useful
5 for the Committee.

6 Ms. Jones.

7 COMMITTEE MEMBER JONES: For information purposes
8 or for guidance?

9 CHAIRPERSON PAPARIAN: Mr. Jones is asking for
10 information purposes or for guidance. I think in December
11 for information purposes, but that might lead to us
12 needing an agenda item for guidance.

13 I was going to say, again, at the meeting on last
14 Friday -- the workshop on Friday, it seemed there were
15 some issues involving implementation of the legislation
16 where some clarification through regulation would be
17 appropriate. That will likely require some direction from
18 the Board to the staff.

19 But I think that for the December time frame just
20 hearing what the legislation requires and what we're
21 telling the LEAs at that point is good. But I think we
22 may fairly quickly need to follow-up with an agenda item
23 to provide you some guidance for regulation. But I think
24 we need the foundation first. So this would be the
25 foundation, just what does it say and what are we telling

1 the LEAs.

2 DEPUTY DIRECTOR LEVENSON: And we actually will
3 provide you with an agenda item that serves as a vehicle
4 in January. Because when we bring back the discussion on
5 the C&D requirements, one provision is public noticing.
6 We also are trying to juggle other provisions of 1497.
7 And also in January we'll be bringing the rule making
8 calendar. So we have to try to coordinate all the
9 different rule makings that might be possible in response
10 to 1497 and in response to the charge to look at the C&D
11 requirements and try to figure out which ones we can do,
12 which ones need to be done, and then how to coordinate
13 those all. So I think January will be a good time to get
14 all this out and coordinated.

15 CHAIRPERSON PAPARIAN: Okay. Anything else?

16 Mr. Jones.

17 COMMITTEE MEMBER JONES: Just a question for
18 Ms. Markie. I couldn't let her go out, you know, giving
19 her a little bit of a hard time. In your report or in
20 your writing, you show level A which is based on the
21 inspection report at the time of inspection. That as part
22 of the guidance, it is that you've identified the issue
23 and then you've also asked for a compliance date for it to
24 be rectified and then it's signed. And I have had a
25 longstanding issue with the fact that some of those

1 compliance dates -- right -- should be something for
2 further discussion. But because they're written on an
3 inspection report, the operator never has the chance to
4 appeal.

5 So I'm wondering how in your own write up where
6 it says it actually calls for a compliance date for it to
7 be fixed, how, where you've both identified the issue and
8 the remedy, how that can't be something that's appealable,
9 if it's arbitrary on the point of the LEA or in this case
10 EA staff.

11 CHAIRPERSON PAPARIAN: I think our legal staff
12 may want to jump in on that one.

13 COMMITTEE MEMBER JONES: That's who it was
14 addressed to. Thank you, Sue. I appreciate that it was
15 in there.

16 ACTING CHIEF COUNSEL BLEDSOE: Michael Bledsoe
17 from the legal office.

18 I thought your question was for Sue.

19 COMMITTEE MEMBER JONES: It was through Sue.

20 ACTING CHIEF COUNSEL BLEDSOE: It seems to me
21 you're describing a situation where EA acting in their
22 discretion has decided an activity constitutes a
23 violation. And so effectively they give a notice of
24 violation by the form of an inspection report, but they
25 chose not to go the next step which is to issue an

1 enforcement order.

2 COMMITTEE MEMBER JONES: But they've asked for a
3 completion date. They asked for a compliance date.

4 ACTING CHIEF COUNSEL BLEDSOE: Right. I
5 understand that. I think it's a good question you're
6 raising. But if they fail to meet that compliance date, I
7 think the EA would have at that point to make the
8 decision, do we give them an enforcement order or do we
9 just give them another notice of violation, which is the
10 same as any other EA does.

11 COMMITTEE MEMBER JONES: But if's an arbitrary
12 issue that the operator has no option -- and that's the
13 way it's been addressed today -- to get in front of any
14 body to protest them. It seems to me that you're asking
15 or you're saying that you not only had to violate it once,
16 but you've got to have multiple violations for them to be
17 able to appeal what had originally been just one issue.
18 And now you're able to label that operator as somebody who
19 has repeatedly broken that violation because we're not
20 giving them the ability to have due recourse the first
21 time that it was written up.

22 ACTING CHIEF COUNSEL BLEDSOE: Right. But
23 really, this is just the same situation as any other
24 enforcement agency has. You know, until the point is
25 reached in that enforcement agency's mind that the only

1 way they're going to get this operator to comply is by
2 issuing a notice and order, that's what they do. And the
3 operator can appeal it if they want.

4 But I see what Sue is describing is a situation
5 where you have a positive working relationship with the
6 operator and for the most part they want to comply so, you
7 know, they put some time frame in there that I guess the
8 EA thinks is reasonable for them to achieve compliance.
9 But if they don't like it, the operator can simply refuse
10 to comply and ultimately wait for that notice and order,
11 and they can then appeal.

12 COMMITTEE MEMBER JONES: But this was a twist on
13 all the arguments -- not your side of it. But all the way
14 it's been described, it was only a notice through an
15 inspection. This really kind of validates what I've
16 always argued is that, you know, it's not just an
17 inspection. It's the basis for an awful lot of stuff. So
18 I think you need to think about the idea -- and rightfully
19 so. I'm not getting you in trouble, believe me.
20 Rightfully so you are asking for compliance and you're
21 setting a date. That goes further than just noting
22 something on an inspection report to be used for
23 further -- and I think it's appropriate, but I think at
24 some point we need to get into a position to allow people
25 all of due process. So just --

1 CHAIRPERSON PAPARIAN: If we go there, I think we
2 may want to look at how some of our sister agencies, Water
3 Board, Toxics, Air Board, handles similar sorts of
4 situations.

5 MS. MARKIE: A lot of times the date is in
6 conjunction with the operator. Like if we're waiting on
7 the reorganization plan or we'll say, "When is it coming
8 in?" It's almost like a little history. We'll put down
9 "operator stated," you know, "new landfill system will be
10 started by" blank. Or they're late in paperwork so we
11 say, "please submit required paperwork by" a date. So --

12 COMMITTEE MEMBER JONES: Works for me.

13 CHAIRPERSON PAPARIAN: Okay. Thank you.

14 COMMITTEE MEMBER PEACE: So if on the inspection
15 report they write up something that the landfill operator
16 doesn't agree with, instead of saying, you know, "fix this
17 by such and such a date," the operator can say, "I don't
18 agree with this. Write me up a notice and order so I can
19 appeal."

20 ACTING CHIEF COUNSEL BLEDSOE: Ms. Peace, that's
21 really the issue that Mr. Jones is raising. And the
22 practice is --

23 COMMITTEE MEMBER PEACE: They wouldn't have to
24 wait until that compliance? They have to wait --

25 COMMITTEE MEMBER JONES: They do. That's the

1 problem. They have to wait until they become a chronic
2 violator --

3 COMMITTEE MEMBER PEACE: There's no way for them
4 to say, "I don't agree with this. Just write me up a
5 notice and order right now so I can appeal it."

6 CHAIRPERSON PAPARIAN: And you get into also then
7 a situation where the operator has a write of appeal --
8 the public ought to have a right of appeal if they don't
9 agree with what's going on there as well.

10 COMMITTEE MEMBER JONES: And I agree because
11 that's --

12 COMMITTEE MEMBER PEACE: With Florin-Perkins, you
13 can see that doesn't happen.

14 CHAIRPERSON PAPARIAN: But I think we may be
15 getting beyond the scope of this agenda item of the Board
16 serving as an LEA.

17 COMMITTEE MEMBER JONES: We are. But you make a
18 good point. The public today has the right to challenge
19 any LEA in the state on any given inspection that they are
20 not doing their job. And they get to come to this
21 Board -- well, first they go through the local hearing
22 panel and then to this Board on that one inspection. The
23 operator doesn't have this ability. So I think you're
24 right, Mr. Paparian.

25 CHAIRPERSON PAPARIAN: I'm not sure that's

1 exactly the process in situations like this, but --

2 COMMITTEE MEMBER JONES: That is exactly the
3 process.

4 CHAIRPERSON PAPARIAN: Okay. Anything else to
5 come before the Committee?

6 Any public comment?

7 Okay. Thank you very much, everybody. This
8 meeting is adjourned.

9 (Thereupon the California Integrated Waste
10 Management Board, Permitting and Enforcement
11 Committee adjourned at 4:19 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 17th day of November, 2003.

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